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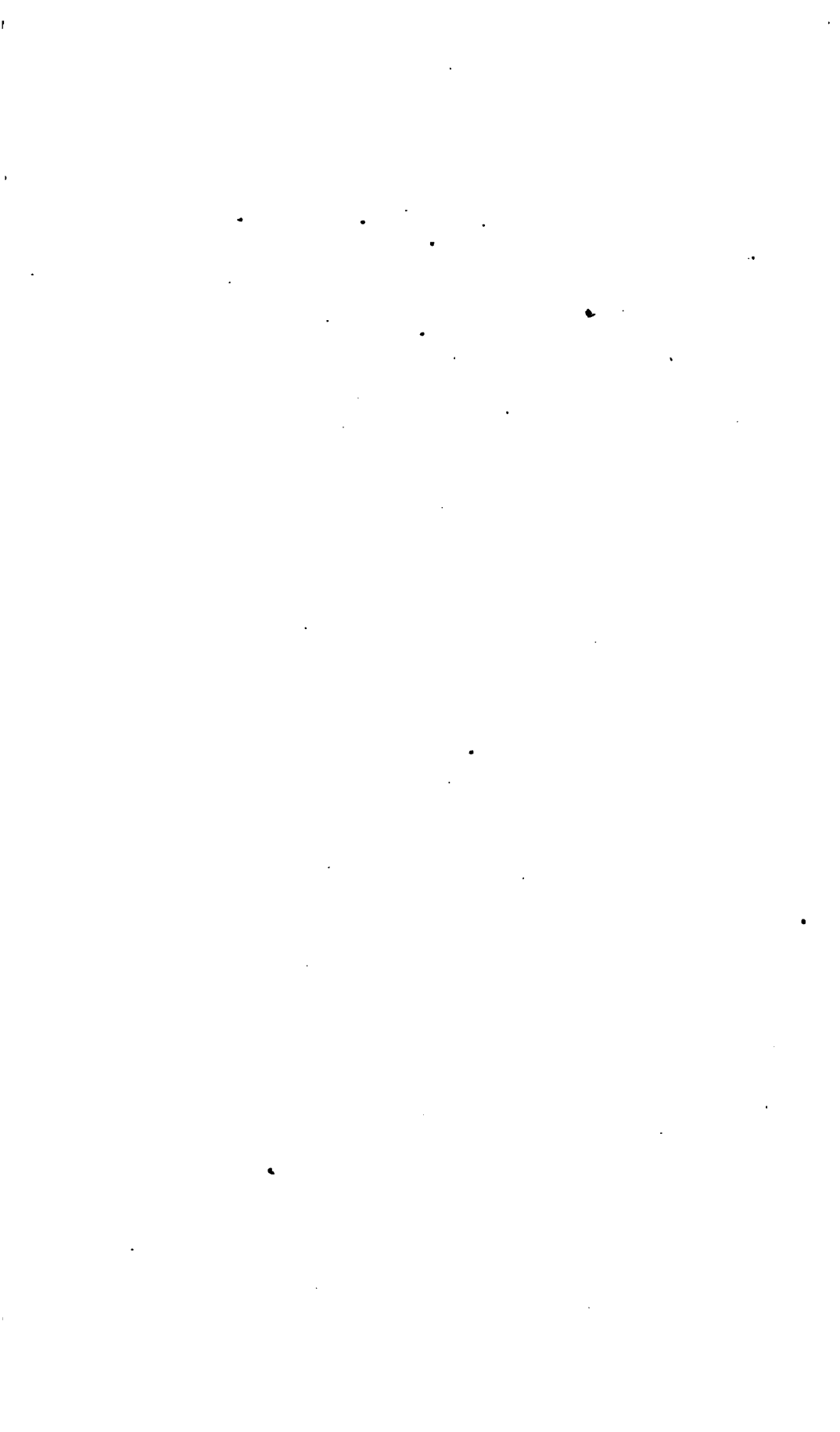


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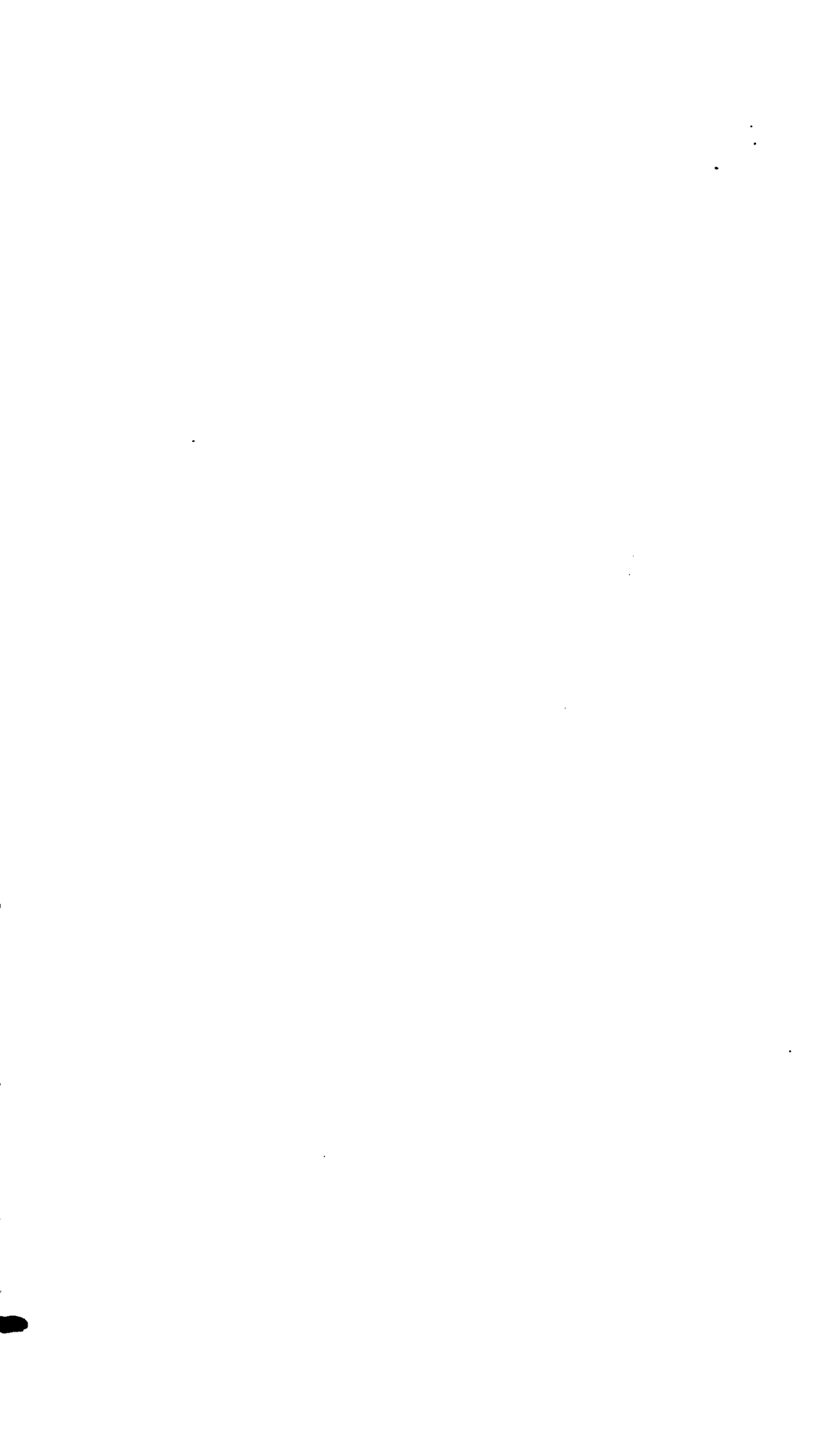
FROM

*Prof. J. Sparks*











*A. D. 185*

**PARLIAMENTARY  
HISTORY AND REVIEW.**



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**PARLIAMENTARY**  
**HISTORY AND REVIEW;**

CONTAINING  
**REPORTS**  
OF THE  
**PROCEEDINGS OF THE TWO HOUSES OF PARLIAMENT**  
**DURING THE SESSION OF 1825:—6 GEO. IV.**

WITH  
**CRITICAL REMARKS**  
ON THE  
**PRINCIPAL MEASURES OF THE SESSION.**

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## ADVERTISEMENT.

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THE design of this work is to afford an annual record of the proceedings of the British Parliament, together with an examination of the principal topics discussed in that assembly, and of the manner in which its functions are performed.

The wealth and power of Great Britain—the rank which she holds in the scale of national intelligence—and the freedom of speech for which her legislative assemblies have been so long celebrated,—render British history a matter of no ordinary interest and importance; and for this history the two Houses of Parliament must supply the most authentic as well as the most instructive materials.

It is surprising, therefore, that the debates of the British Parliament have never yet been arranged for the purpose of examination or reference;—that they are only to be found in the chaotic miscellany of daily reports;—and that they have been subjected to no periodical comment more systematic or accurate than the brief and hurried remarks of a newspaper editor.

The conductors of the present work have endeavoured to supply this remarkable deficiency in our periodical literature, and if they have only in a moderate degree succeeded in carrying their design into execution, they will have produced a work as novel as it is important. Some now living remember the sensation produced by the first appearance of the *ANNUAL REGISTER*; and if that work was deemed to have formed an epoch in the annals of literature, it is hoped that the present will be esteemed at least as striking an accession to the means of diffusing political knowledge.

In the first place, all the debates on a given subject, after having been carefully revised and collated, have been collected under the general head to which they respectively belong; nothing being omitted but mere conversations, of no interest except at the moment of utterance; such as discussions regarding the day or hour at which a given debate should be entered on, questions of order, and the like.

#### ADVERTISEMENT.

At the end of the debates, is a careful examination, as well of the measures discussed, as of the arguments adduced on both sides of the question, and of the conduct of Parliament with reference to the matter in hand.

Of these critical essays it is not for the conductors of the work to say much ; but they can safely affirm, that they are and will be exempt from vehemence or invective, and impartially directed to what ought to be the only end of legislation—not the predominance of a particular party, sect, or portion of the community—but, the greatest happiness of the greatest number.

A Prefatory Treatise on Political Fallacies indicates the spirit and principles in which the debates have been examined. This treatise may be not unuseful to those who wish to form an estimate of the amount of talent and knowledge actually assembled in the two Houses of Parliament, and by degrees may have the effect of ridding the debates of a set of arguments almost always irrelevant, and but too generally delusive.

To foreign nations, particularly France and the United States of America, the whole will afford a view of British affairs, more clear, comprehensive, and authentic, than any which can be obtained elsewhere.

Such is the present work, and such its claims to public favor.

Even if feebly executed, it cannot be of mean assistance to the progress of knowledge and improvement ;—but as neither expence nor labour have been spared to its completion, the conductors are not without hopes that the execution may in some degree correspond with the design.

The difficulty and extent of the undertaking have doubtless rendered unavoidable, at the outset, many defects, but for these it is hoped some allowance will be made, when it is stated that the work was not projected until July last, and that in every future Session the conductors will have the advantage of nearly a whole year for the preparation of the materials it may afford.

The work will in future appear on the first of January in every year.

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# PREFATORY TREATISE

ON

## POLITICAL FALLACIES.

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A MAN will read to little purpose the debates of legislative assemblies, if he be not able pretty readily to detect the bad reasoning to which the members of most of those assemblies, as at present constituted, are, perhaps, more prone, than the rest of the community. In lieu, therefore, of formal preface, we shall in the following compendium, present our readers with an instrument, which will, we trust, enable them at once to discover and expose those fallacies, the prevalence of which has but too much contributed to retard political improvement; and to this instrument we shall make frequent reference in our examination of the ensuing debates.

To the inexperienced or unreflecting, two questions will here naturally present themselves;—Is it true, that the deliberative assemblies which are said to contain “the collected wisdom of the nation,” can be even more prone to bad reasoning than other portions of the community? and if so,—What are the causes of this unhappy tendency?

That the position in question is true, will but too plainly appear to any one who may apply to the debates in the ensuing volume, the test which we are immediately about to furnish; and will be believed, *a priori*, by all who are acquainted with the structure of our parliamentary system.

With respect to the causes which contribute to the production and prevalence of bad reasoning, the following seem to be the principal:

Weakness of intellect;

Imperfections of language; and

The sinister interest of the individual who errs:—

By a *sinister interest*, we mean an interest attaching to an individual or a class, incompatible with the interests of the community:—for there are two sets of interests which affect every member of society;—those which are confined to himself; those which attach to him in common with others; that is to say, as a member of the community:—and we call those which are confined to himself, *sinister*, when they operate in a direction contrary to those which attach to him as a member of the community.

Thus, every man, as a member of the community, has an interest that taxation should be as light as possible; but if he derive an income out of taxes, and this income is proportioned to the amount of the taxes, he has an interest confined to himself, that taxation should be as heavy as possible, provided it do not extend to the destruction of the subject-matter of taxes.

If, out of taxes to the amount of 10 *per cent.* upon all property, he derives an income of 500*l.* a-year, but would derive 1000*l.* a-year from taxes to the amount of 20 *per cent.*,—supposing him to pay the respective rates of taxation out of each rate of income,—he would be tempted, in the proportion of 800 to 450, to sacrifice to the interest confined to himself, the interest which attaches to him as a member of the community. Here, therefore, is an interest confined to the individual himself, which is clearly sinister to, that is, incompatible with the interest of the community.

To prevent the sinister interests of an individual or class of individuals from operating detrimentally on the interests of the rest of the community, ought to be the great object aimed at in the formation or reformation of every government.

With those who assert, that mankind are not actuated in the main with a view to their private interest, we can have no reasoning in common: still less with those, who admitting the fact in the case of ordinary individuals, claim for the ruling few an exemption from the common lot of humanity. This is not the place to enter into the proofs of the existence of a principle of action, the predominance of which is attested by the mere existence of laws;—every one who violates a law, does, by so doing, prefer his private interest to his interests as a member of the community;—but the man, who from his own observation has not ascertained the existence of this powerful principle of action, is as weak or as ignorant as he who laments its predominance. The well-being of every individual, and thereby of society at large, is produced by the preference of self: in its strict meaning, self-interest is the mainspring of human action; it is the principle which apportions exertion to the necessities for which it is required, and rescues us from a helpless dependence on other beings. Imagine that condition of things, in which, not the principle of self-interest, but its opposite,—the preference of the public good to private,—should generally obtain: the consequence is as absurd in supposition as it would be disastrous in reality. “Every man shift for all the rest, and let no man take care for himself,” says the drunken sailor\* in Shakspeare’s *Tempest*. The objection ought to be, not that self-interest exists and predominates, but that our political institutions have not been so framed as to make it conduce to the benefit of the community as well as to that of the individual, or at all events, that it has not been prevented from operating in a direction opposed to the interests of the community; for that its operation may be so directed or controlled by political institutions constructed to such an end, cannot reasonably be doubted.

With respect to imperfections of language,—that which is mainly instrumental in causing bad reasoning, is, the number of *appellatives which beg the question*; that is, appellatives, which in addition to the idea of the object which they profess to name, raise up also, as inseparably connected with it, some accessory idea of praise or blame. Thus, among the terms which designate the objects of moral and political science, such words as *piety*, *generosity*, *prudence*, *improvement*,—present the object, in conjunction with ideas of approbation;—these may be called, *laudatory*, or *eulogistic terms*: such words as

\* Stephano.—Act 5.



*superstition, prodigality, avarice, innovation*,—present the object in conjunction with ideas of disapprobation;—these may be called *vituperative*, or *dyslogistic terms*. Such words as *creed, disposition, arrangement, change*,—present the object singly, unassociated with any sentiment either of approbation or disapprobation, and these may be called *neutral terms*. As the immediate end of reasoning is commonly to ascertain whether the thing which is the subject of discussion be good, bad, or indifferent, it is obvious that neutral terms ought alone to be employed by those who desire to arrive at the truth. They who employ terms eulogistic or dyslogistic, assume thereby the point in debate, and supersede altogether the process of reasoning. Terms of this kind are not simple, but compound: they include a proposition in themselves: the mere word affirms the quality of the thing it is used to designate, and thus, when the quality is the matter in discussion, it begs the question.

By weakness of intellect we mean, in this place, incapacity to follow logical deductions, whether that incapacity be occasioned by want of instruction, want of practice, or want of inclination.

Now, of the three causes of bad reasoning which we have just specified and explained, the sinister interest of the individual disputant is, to an incalculable degree, the most fertile and fatal source of error and delusion. Weakness of intellect may be aided by instruction, by practice, or the discovery of motives for desiring the attainment of truth;—the imperfections of language may be guarded against and remedied by habits of rigid investigation;—but sinister interest opposes to the reception of truth an obstacle almost as insuperable as it is extensively-prevailing. The bias which it communicates to the intellect of the individual exposed to it, leads him, often unconsciously, to embrace and receive with disproportionate regard all arguments which tend to support this interest, and to overlook or undervalue all which make against it;—to find a useful ally in every imperfection of language;—to acquiesce in established opinions as in established abuses;—to deprecate enquiry, and even to sneer at any exertion of the thinking faculty.

To what extent the members of the British Parliament are exposed to the action of sinister interest, is fully understood by those who are aware that these members conduct, subject to no immediate check, the expenditure of an immense fund raised by taxation:—subject to no immediate check, because they are neither elected nor removable by the people whom they are said *virtually* to represent, but in considerable numbers avowedly purchase their seats, while a majority of them, are indisputably placed in the House by about 180 powerful families, who either in possession or expectancy have a direct interest in a prodigal expenditure of the public money, and as far as possible, in appropriating it to their own purposes. We say, not *elected*, even by those who vote, because according to the ordinary experience of human nature, the candidate or his friend may be affirmed to have it in their power to *compel* a vote, so long as they have it in their power to make the voter expect evil at their hands if he votes one way, and good if he votes another; and this power they clearly have wherever

the open mode of conducting suffrage enables them to ascertain with precision which way a vote has been given

When it is affirmed by the defenders of this system, that it "*works well in practice*;" all that they can mean, if they mean any thing, is, not, that there are no abuses under it, no unjustifiable expenditure of the public money, no sacrifice of the interests of the many to the interests of the few, but that England enjoys a greater degree of prosperity than some other countries; as Russia, Germany, or Spain. It remains, however, for them to shew that this prosperity is the result of our Parliamentary system, and not the result of that publicity of discussion, and comparative freedom of the press, which by some lucky accident,—not by law, but contrary to law, and to the standing orders of Parliament,—has always existed for us while it has been denied to the rest of Europe, and has established here, a tribunal of public opinion, to which Parliament itself is, in the long run and to a certain extent, compelled to defer.

But it is the co-existence of this unacknowledged power with a frame of Government the members of which are exposed to the action of a powerful sinister interest, that renders the use of fallacies more necessary to the British Parliament than to any other deliberative assembly. In countries where freedom of the press and public discussion do not exist, the interests of the many are openly and unhesitatingly sacrificed by force to the interests of the few: the people have it not in their power to require reasons, and no reason is given but the supreme will of the ruler. In England, on the contrary, these ends can only be attained by fraud. In consequence of long established habits of public discussion, the people are too mindful of their own interests, and too strong, to allow them to be openly violated: reasons must be given, and reasons sufficient to satisfy or deceive a majority of the persons to whom they are addressed. Now as it is impossible by fair reasoning, with reference to the avowed ends of Government, to justify the sacrifice of the interests of the many to the interests of the few, and as we have shewn that the members of the British Parliament are placed in a position which must induce them more or less to attempt this sacrifice, it follows that for effecting this purpose they must have recourse to every kind of Fallacy, and address themselves, when occasion requires it, to the passions, the prejudices, and the ignorance of mankind.

Having therefore, in tracing the causes of bad reasoning, prepared the reader to expect no small portion of it in the ensuing debates, we shall proceed at once to enumerate and expose the various Political Fallacies which are still perseveringly repeated, and still exercise but too powerful an influence on the human understanding.

For the purpose of assisting the memory, for we are not satisfied with the logic of the arrangement, we shall class these Fallacies under four heads.

*Fallacies of Authority*; which are advanced with the view of superseding all exercise of the reasoning faculty.

*Fallacies of Danger*; in which it is proposed to repress discussion by exciting apprehension.

*Fallacies of Delay*; the object of which is to postpone discussion, with a view of eluding it altogether.

*Fallacies of Confusion*; the object of which is to perplex and mislead, when discussion can no longer be avoided.

And first, of *Fallacies of Authority*.

Whenever a matter in debate is such, that relevant arguments on the subject in debate would be within the comprehension of the debaters, he who in lieu of relevant argument refers to *authority*, is chargeable with the imputation of Fallacy, and by pursuing this course, virtually admits one of the two following positions; either, That the principle of utility, i. e. the greatest happiness of the greatest number, is not the proper standard for judging of the merits of the question; or, That he does not himself possess any powers of reasoning to which he can safely trust.

Without at present entering into any analysis of authority, or specifying the few occasions on which it may be proper to appeal to it, we may assume generally, that in a legislative assembly *scientific or professional opinion*, upon subjects with which the debaters may excusably be found unacquainted, is the only authority entitled to serious consideration. Even here it must be ascertained, and considered to what extent the party consulted is exposed to the influence of any sinister interest which may either blind his judgment or induce him to pronounce an opinion which he does not entertain; as a lawyer when called on to give an opinion about reforms in law, or a priest about reforms in the church. The professional or scientific man, however, has always the *motives*, and the *motives* generally lead him to the *means* of obtaining accurate knowledge in his trade or calling; and with regard to *probity*, that is, the sincerity with which the opinion is delivered, it is almost ensured by the necessity he is under of sustaining his reputation. In no other instance in which an individual may be appealed to as authority, is there the same chance of meeting with an equal degree of relative intelligence and relative probity. We say, an individual, because it is obvious that the probative force of authority is not increased by the *number* of persons who may have professed a given opinion, unless it can be proved, that each individual of that number, possessed in the highest degree the means and motives for ensuring the correctness of the opinion. Obvious, however, as the position may appear when thus stated, mankind seem hitherto to have been strangely heedless of its truth and importance, for upon no better authority than that of *numbers*, have systems and opinions the most mischievous and absurd, so long and so extensively prevailed; such as the religions—of Buddh, of Brama, of Foh, or of Mahomet. In truth, there seems to be no absurdity to which men may not be reconciled by idleness, ignorance, and sinister interest.

It is to the disinclination which the opulent must generally feel for encountering the toil with which alone appropriate knowledge can be obtained on any part of the field of legislation;—it is to the facility with which the most ignorant and imbecile may cite the opinion of another; and—to the sinister interest which is busied in suppressing every exercise of the reasoning faculty, lest that faculty should be directed to the removal of abuses,—that we must ascribe the extensive dominion of the

## FALLACIES OF AUTHORITY.

The four following are those in most frequent use :—

Wisdom of our ancestors.

No precedent.

Irrevocable laws.

Laudatory personalities.

1. The first of these is generally contained in the hacknied expressions of—*The wisdom of our ancestors*,—*Wisdom of ages*—*Venerable antiquity*,—*Wisdom of old times*,—and phrases of the like import; from which it is meant to be inferred, that the repugnancy between a proposed measure and the opinions of our ancestors on the same subject, is, in itself, a sufficient reason for rejecting the measure. Now, according to the language of all but those who are interested in resorting to this fallacy, “Experience is the mother of wisdom;” according to the fallacy, Wisdom is the offspring, not of experience, but of inexperience. As between individual and individual living at the same time and in the same situation, he who is old may have more experience than he who is young: as between generation and generation, that which is the preceding generation, cannot have had so much experience as the succeeding: with respect to such of the materials or sources of wisdom as may fall under every man’s individual observation, the two generations may be on a par; with respect to such of those materials as are derived from the reports of others, the later of the two possesses the indisputable advantage of adding to its own experience, the experience of the former.

So long as men keep to vague generalities, and oppose their “wise progenitors” in the lump, to the “ignorant mob” of modern times, the weakness of the fallacy may escape detection: let them but contrast any determinate period of “venerable antiquity” with the present time, and the deception will instantly vanish. Unless the antecedent period be comparatively a recent one, so great will be the disparity, that in comparison with the best informed classes of those venerated ancestors, the palm of intellect must be awarded to a modern mechanic. Take, for instance, the reign of Henry VIII. At that time the House of Lords probably possessed the larger proportion of what little information the age afforded; it is doubtful, however, whether, without exception, their Lordships were able so much as to read; but supposing they could, in what book were they at that time to find any instruction on the various branches of political science? Pass on to the reign of James I., and we see that Solomon of his time, consigning men to death and torment for the misfortune of not being quite so well acquainted as he was, with the nature and composition of the Godhead. In the time of Charles II., even after Bacon had laid the foundations of a sound philosophy, we find Lord Chief Justice Hale unable to tell, (so he says himself,) what theft was, but knowing at the same time too well, what witchcraft was, and hanging men with equal complacency for both crimes, amidst the applauses of all that was wise and learned in that blessed age.

Our ancestors then, considering the disadvantages under which they laboured, could not have been capable of exercising so sound a judgment on their own interests as we on ours: but as a knowledge

of the facts on which a judgment is to be pronounced, is an indispensable preliminary to the arriving at just conclusions, and as the relevant facts of a later period must all of them individually, and most of them specifically, have been unknown to the man of the earlier period, it is clear, that a judgment derived from the authority of our ancestors, and applied to existing affairs, must be a judgment pronounced without evidence : and this is the judgment which the fallacy in question calls on us to abide by, to the exclusion of a judgment which might be formed on complete evidence. No one will deny that preceding ages have produced men eminently distinguished by benevolence and genius ; it is to them that we owe in succession all the advances which have hitherto been made in the career of human improvement : but, as their talents could only be developed in proportion to the state of knowledge at the period in which they lived, and could only have been called into action with a view to then-existing circumstances, it is absurd to rely on their authority at a period and under a state of things altogether different.

In no part of the field of knowledge, save legislation, do leading men of the present times recommend us this receipt for thinking and acting wisely. Nobody would now refer us to the wisdom of our ancestors for the best mode of marshalling armies, navigating ships, or curing, alleviating, or preventing disease. Why this difference ? Only because in these parts of the field of knowledge, leading men are not affected with that sinister interest which is so unhappily combined with power in the frame of European governments.

The causes of the ascendancy which this fallacy has attained, seem to be, an error in language ; and a prejudice in favor of the dead. The gist of the fallacy lies in the word *old*, for what in common language is called *old* time, ought in strictness to be denominated *young* or *early* time ; succeeding generations, as we have before shewn, being, with reference to the accumulated experience of ages, as much older than those which have preceded, as a man is older than a child. To bestow on preceding ages the name of *old* time, is to transfer the appellation of *old* from age to infancy : the wisdom of antiquity is not the wisdom of grey hairs, but the wisdom of the cradle.

The prejudice in favor of the dead is no less indefensible than pernicious. The language of reason would inform us, that the infliction of pain on those who feel, and not on those who are insensible,—that outrages on the living, and not attacks on the dead, should be stamped with the seal of reprobation. The origin of the prejudice will be found very near the surface. The dead have no rivals. They stand no longer in the way ; and their survivors gain cheaply a credit for impartiality, by praises which cost nothing, and frequently enable them to gratify a more urgent malignity towards their living opponents.

## 2. *No Precedent.*

This fallacy is of the same nature as the preceding, and in effect propounds, that nothing ought now to be done unless it has also been done by our ancestors. "*The proposition is novel and unprecedented ;—the present is surely the first time that any such thing was ever heard of in this house.*" Such is the language in which the sophist clothes his objection, which, if it were attended to, would form a complete

bar to all human improvement, and pushed to its consequences, would place us again in the savage state. The exigency which calls for the measure to which this fallacy is offered as an objection, may never before have arisen; or if it arose, they who were exposed to it, may not have had ingenuity to devise the measure. But, if the argument be an objection against a measure now proposed, so it is equally an objection against every other that ever has been proposed or adopted, and consequently against every institution that exists at present: if it prove that a thing now proposed ought not to be done, it proves equally that nothing else ought ever to have been done.

### 3. *Irrevocable Laws.*

All laws and political institutions are essentially dispositions for the future, and the professed object of them is to afford a steady and permanent security to the interests of mankind: so far, therefore, they may be said to be framed with a view to perpetuity: but men are fallible, and circumstances change; laws or institutions may turn out to be defective; the causes which called them into existence may cease to operate, and other causes may call for an alteration: it is obvious, therefore, that the principle on which all laws ought to be, and the greater part of them have been established, is that of *defeasible perpetuity*. The ignorant and unreflecting, as well the interested, are, however, often heard to speak of certain laws as absolutely *irrevocable*; carrying thereby, to the highest pitch of extravagance and absurdity, the fallacy of the *Wisdom of Ancestors*. To the extent of the pretended immutable law, the government is transferred from the legislator of the time being, who has the best means of information, and the liveliest interest in the matter, to the dead legislator, who could have no means of foreknowing the exigencies of the present moment, and no interest equal to that of those who are immediately concerned. The despotism of a living tyrant, be he Caligula or Nero, may be alleviated by operating on the hopes or apprehensions of the despot; but the deceased neither hears nor feels. It should be observed, that it is only when the law in question is mischievous, that an argument of this stamp will be employed in support of it: if it be good, it will be supported by reasons drawn from its own excellence.

One shape which this fallacy has occasionally assumed, is the supposed existence of a kind of public contract. The sacred observance of contracts is among the most important ties that bind society together, and an argument drawn from this source, cannot fail to wear the appearance of plausibility. A contract, however, is not in itself an end, but a means to an end, and in cases where the public is a party, it is only so far as the public happiness is the end in view, that the contract is worthy to be observed. A striking application of the fallacy to the sinister purposes of a small portion of the public, may be found in the pages of Blackstone.

In the articles of Union between England and Scotland, for securing the forty-five members of the latter country from being outvoted by the five hundred of the former, provision had been made in favour of the Scottish Kirk. To give the treaty a colour of reciprocity, the like provision was made in favour of the Church of England. Of this latter circumstance, Blackstone has artfully availed himself for the

purpose of perpetuating whatever may be found defective in English ecclesiastical matters. He states, that the preservation of the two churches, and the maintenance of the acts of uniformity which established the Common Prayer, are expressly declared to be "fundamental and essential conditions" of the union, and, therefore, that any alteration in the constitutions of either of the churches, or, with certain exceptions, in the liturgy of the Church of England, would be an infringement of those "fundamental conditions," and "greatly endanger the Union." Hence, should it ever occur that a change in the established belief should be followed by a corresponding alteration in the articles of the church,—if, for instance, the opinion should happen to gain ground, that human beings by the mere act of being born, neither merit nor incur damnation, and a corresponding change should be made in the article which enjoins such belief,—the union, according to Blackstone, would be greatly endangered. The absurdity of this reasoning is scarcely less astonishing than its impudence.

Another shape which the fallacy assumes, is that of a *vow*, or *promissory oath*; in which case, as a sanction to the engagement, a supernatural power is introduced in the character of guarantee. Now this supernatural power is either bound or not bound. If not bound, the sanction amounts to nothing: if bound, observe the consequence: the Almighty is bound; and by whom? Of all the worms that crawl upon the earth in the shape of men, there is not one who may not thus impose on the ruler of the universe any number of contradictory and incompatible observances. The offence too, which this Being is to visit with punishment, is not the act which the oath was proposed to prevent, for that act may be indifferent or even meritorious: the offence is the mere profanation of a ceremony, and an act the most beneficial to mankind may become by this doctrine the greatest crime in the estimation of the Object of Religion; whence the absurdity follows that the Being whose tenderness for the happiness of mankind is among his most estimable attributes, is nevertheless injured and offended by an act which may promote that happiness in the highest degree.

The statute of 5 Ann. c. 8. art. 25. s. 8. establishes a coronation oath, by which the king vows to preserve inviolate the settlement of the church, and the doctrine, worship, discipline, and government thereof, as then by law established. The utterance of this vow was made during the late reign, the pretence for perpetuating a mischievous instance of misrule in the exclusion of the Catholics from political privileges. It is obvious that the vow can only apply to the king in his executive and not in his legislative capacity; otherwise, every curate's bill, and almost every other statute to which he gives his assent, would be an infraction of it. It is obvious that if he persists in viewing it in a different light, he has the option of resigning his kingly office. It is obvious that if he refuse to do so, and makes the observance of an oath the pretence for inflicting and perpetuating misery upon a whole people, he renders himself absolute on the easy condition of pronouncing the word *conscience*, and that the pretended check of the oath is in effect a licence under the appearance of a check;—chains to the man in power; but such as he figures with on

the stage ; to the spectators as imposing, to himself, as light as possible, they rattle without restraining. But whatever interpretation may be put on the oath, to oppose a beneficial measure on the score of religion, is to employ the form against the substance ; the means against the end ; to convert the terms employed to magnify the service of the Deity, into instruments of opposing his designs. To pronounce such a vow is criminal, to persist in it criminal and foolish. It should always be observed that this sanction is more likely to be applied to a pernicious than a beneficial purpose. Because the more manifestly the act enjoined or prohibited, is beneficial, the more likely is it to be performed or omitted independently of the sanction.

#### 4. *Laudatory Personalities.*

This class of fallacies is played off in two ways ;

By a bold assumption of superior honesty or talent, or

By an unusual affectation of modesty.

Under the first device, when any abuse is dragged to light, any reform proposed or security demanded, men in office set up a cry of surprise, amounting almost to indignation, as if their integrity were questioned or their honour wounded ; at the same time they dexterously throw in intimations that their conduct is regulated by nothing less than the most exalted patriotism, honour, and religion.

The use of this fallacy is frequent in proportion to the difficulty of meeting it with specific disproof. Of the various official malconductors there is not one in whose defence this fallacy has not been urged : no matter what the delinquency or how clearly proved, up starts some friend of the accused, and roundly asserts his entire integrity and aptitude, which can no longer be disputed when it rests on such high authority. Ordinarily we judge of men's character by their conduct ; this fallacy calls on us to judge of their conduct by their character : and this too, notwithstanding the indisputable principle of politics, that no possible degree of virtue in those who rule can justify us in dispensing with the safeguard of good laws and public investigation. Assertions such as those we have noticed, are not only irrelevant to any question of reform or of improved public security, but they involve assumptions opposed to the known qualities of human nature ; they deny the influence of private interest in cases where it operates with the most unfailling certainty ; they are as easily made by the most profligate, as by the most virtuous of mankind, and are much more likely to be resorted to by the profligate. The virtuous man, being what he is, has that chance for being esteemed as such ; the profligate self-trumpeter, having no such hope of reputation, relies on the conjunct effect of his own effrontery, and the imbecility of his hearers.

An equal assumption of superiority is involved in the other mode of playing off this fallacy by an unusual affectation of modesty. When a defect in our institutions is clearly pointed out, and an unobjectionable remedy proposed, up starts the man in office, and instead of giving any definite answer, meets the proposal, with, "I am not prepared" to do so and so ; "I am not prepared to say," &c. ; with other phrases of similar import : the meaning of which, put into plain English, is,



"If I, who am so much your superior in rank and intelligence, avow myself incapable of forming a judgment, what presumption must it be in you to pronounce your conclusions on the subject."

The part of a man of probity is too obvious to require explanation. If he is not prepared to pass a judgment, he is not prepared to condemn, and ought not, therefore, to oppose: the utmost he is warranted in doing, if sincere, is to ask for time to consider.

#### FALLACIES OF DANGER.

Among these, the four following may be enumerated as obtaining the most extensive currency.

Vituperative personalities.

Incitement to distrust.

Dread of innovation.

Skreen for offenders in office.—First then, of

##### (5.) *Vituperative Personalities.*

Nothing but laborious application and a clear and comprehensive intellect can enable a man to employ successfully on any given subject, relevant arguments drawn from the subject itself. To employ personalities, neither labour nor intellect is requisite: in this sort of contest the most idle and ignorant are on a par with, if not superior to the most industrious and highly-gifted individuals, and nothing can be more convenient for those who would speak without the trouble of thinking: close and relevant arguments, have very little hold on the passions, which they serve rather to quell than to inflame, while in personalities there is always something stimulant whether they are employed in praise or blame. These are among the prevailing causes of the frequent recourse to vituperative personalities, which in common with other fallacies possess in a high degree the quality of irrelevancy, and produce the effect of drawing off the attention from the *measure to the man*. As far as they can be said to apply at all, they apply with as much force to good measures as to bad, for there is no good measure which may not be supported or even introduced by a bad man.

These fallacies are commonly employed in one of the five following shapes. Imputation of bad design. Imputation of bad character. Imputation of bad motive. Imputation of inconsistency. Imputation of suspicious connexions.

In the *Imputation of bad design*, the sophist calls for the rejection of a measure, on the presumption that the proposer of it intends to bring forward at a future time, some pernicious measure connected with that which preceded it. The answer is, reject the second measure if it be proposed, and proved to be pernicious: but the possibility that a second may be proposed, is no ground for rejecting the first, supposing the first appears to be of itself unexceptionable; and if it be exceptionable, the indication of its defects is the proper way to procure its rejection.

As to the *Imputation of bad character*, allow this argument the effect of a conclusive one, and you put it in the power of any man to

withdraw you from the support of a measure which you esteem good, or force you to support one which you may esteem bad. Is it good? the man of bad character embraces, and by the supposition you reject it: is it bad? he blames, and you in consequence adopt it. Give yourself up to any such blind antipathy, and you are no less in the power of your adversaries, than by a correspondently irrational sympathy and obsequiousness you place yourself at the mercy of your friends.

The *imputation of bad motive*, is perhaps the most stupid and absurd of all the vituperative personalities, both because there is no mode of ascertaining with precision the real motives of men, and because, if a measure be good it is indifferent what were the motives of its author; if it be bad, its assignable defects are the ground on which to oppose it. By a bad motive, in these cases, is generally meant a view to private advantage; but if the measure be beneficial to the community, is it the worse because the proposer may profit by it also?

With regard to the *Imputation of inconsistency*, admitting the fact of the inconsistency, the utmost it can amount to in the character of an argument against a proposed measure, is, the affording a presumption of bad design or of bad character in a certain way and to a certain degree, and of the futility of these arguments a view has already been given. They may operate to the prejudice of the individual, but form no logical objection to the measure he supports.

The argument drawn from the *Imputation of suspicious connexions*,—even admitting the existence of the connexion, the improbability of the associate, and the influence exercised by him over the person to whom the connexion is objected,—stands on the same ground, and is open to the same refutation as the four preceding. There are few political measures in which men of all degrees in the scale of probity and improbity, may not be engaged on both sides.

*Imputation founded on identity of denomination* is a modification of the preceding fallacy, which has been frequently urged against the claim of the Catholics to an equal participation in civil rights. "Such and such enormities have been perpetrated by men who in former times bore the same denomination as you, and such we may expect from you; we judge of your intentions by the conduct of your predecessors." About the same time that these enormities were committed by Catholics, similar enormities were committed by the Protestants, and may therefore in both cases be ascribed rather to the ignorance and ferocity of the period than to any particular modification of faith. In other European countries the spirit and interests of the professors of Papacy, as well as of Protestantism, have so far changed, that like enormities have long since ceased to be perpetrated on the score of religion: it remains therefore, for those who resort to this argument against the British Catholics, to show that in spirit and interests they alone remain unchanged. To punish the existing generation for the crimes of the past, is as absurd as it would be to purge the inhabitants of Marseilles because their predecessors had the plague in 1720.

#### 6. *Incitement to Distrust.*

This fallacy arises out of, and much resembles the *Imputation of bad character* and bad design. It calls for the rejection of a measure, not for any defect inherent in it, but on the ground that it may pave

the way for mischievous measures hereafter. "In what is now proposed, there may be, perhaps, no great mischief, but in the quarter in which this measure originates, there are *more behind* of a very different complexion." Assuming that this is addressed to persons who have the faculty of choice, the fallacy supposes them so imbecile as not to be able to distinguish between good and bad, or even as being prone to adopt the bad. If, of two measures proposed at the same time, one were good, and the other bad, it would be absurd enough to reject both because one was bad; but the fallacy in question goes much farther, and calls on us to reject a good measure, because by possibility it may be followed by a bad one. But if the measure be rejected on this ground, so ought every other that ever has been or can be proposed; for there is no measure, however good, that may not possibly be followed by a bad one. Absurd as the argument may appear, there are few more frequently employed in Parliament. From the woolstack, it has recently been objected to the bill for allowing Unitarians to perform the marriage ceremony in their own chapels, that the measure, however proper in itself, might tend to sanction future measures detrimental to the church.

#### 7. *Dread of Innovation.*

*Innovation* is one of those words, which in addition to the principal idea conveyed by it, annexes also a sentiment of disapprobation. By *Innovation*, is meant, not only *change*, but change attended with preponderating inconvenience, and it presents a fallacy most influential on those who receive without examination the vague ideas expressed by ordinary language. Their imagination conjures up a train of spectres which the judgment is unable to subdue, and foremost among them, the demon Anarchy. The absurdity of the argument intended to be included in the word *Innovation*, is so glaring as scarcely to admit of further exposure. Whatever is now *establishment* was once *innovation*, so that the objection is applicable to all measures that ever have been or ever may be proposed. Whether or not the measure proposed, be now proposed for the first time, is, except for the purpose of producing caution, a matter of indifference, and irrelevant to the main question which ought to be the object of enquiry; viz. whether or not the measure is likely to conduce to the greatest happiness of the greatest number.

Equally irrelevant is the counter-fallacy sometimes resorted to, in answer to the foregoing, that the change proposed is not innovation, but a return to an original state of things; an argument which with no less ignorance than sincerity has been used by many of the advocates of parliamentary reform. Whether the assertion be true or false, it is no argument for the re-establishment of the system which existed under the Tudors and Plantagenets. The goodness or badness of a measure depends on the effects it is likely to produce in the *present* posture of affairs; its correspondence with or difference from the institutions of our forefathers, whose political situation bore no more resemblance to our own than their morals or manners, is, comparatively, a matter of indifference.

It is scarcely possible to produce even the most beneficial change without producing some inconvenience, and this it is that has given

such influence to the word *innovation*. Whenever, however, a proposed change is likely to be attended with more inconvenience than advantage, it is so easy and so relevant to specify the inconvenience apprehended, that we may rest satisfied such inconvenience does not exist, when in lieu of naming it, the objector has recourse to the cry of innovation.

#### 8. *Screen for Offenders in Office.*

This fallacy consists in affecting to consider any disapprobation of the persons by whom or the system on which the business of government is conducted, as pregnant with mischief to the government itself. "Oppose us, you oppose government; bring us into contempt, you bring government into contempt, and anarchy and civil war are the consequence."

So long as government continues in a state short of absolute perfection, there will be no mode of clearing it of abuses, but by the indication of imperfections which may exist either in the conduct of its functionaries, or in the system under which they act; and no imperfection can be pointed out without producing aversion or contempt in proportion to the importance and extent of the imperfection. But so far is it from being true that aversion or contempt for public functionaries, or even for the system under which they act, is any proof of aversion or contempt towards government itself, that it is generally a proof of the opposite affection. The person expressing the contempt does not therefore wish that there should be no public functionaries, but that their conduct should be better regulated; just as the man who blames a particular lawyer or physician, is not therefore chargeable with any desire to abolish law and medicine, but simply with an intention to discourage bad, and encourage good practitioners. The disposition to submit to government is not produced by any such consideration as that of the fitness of the several functionaries of which it is composed: payment of taxes, and obedience to the decrees of courts of justice, do not depend on the good or ill opinion entertained in regard to the officers by whom the business of those departments is carried on, but on the desire for that security which can alone be attained in its highest degree by the vigour and activity of a good system of government.

Another shape which this fallacy assumes is that of attempting to scare off accusation by heaping obloquy on the accuser in case he fails to substantiate his charge.—"*Infamy must attach somewhere,*" said one of the ministers, upon the occasion of a charge made some years ago against a member of the Royal family. But an insinuation to this effect has an unlimited application; the tendency of the fallacy, is, by intimidation, to prevent all true charges from being made, and thereby to secure impunity to delinquency in every shape. As a general proposition, applying to all public accusations, nothing can be more mischievous, as well as fallacious. Supposing the charge unfounded, it may have been accompanied with *mala fides*, (consciousness of its injustice;) *temerity* only; or it may have been perfectly blameless; and it is in the first case alone that infamy can attach upon him who brings it forward.

## FALLACIES OF DELAY

Among these we shall consider—

No complaint,  
False consolations,  
The procrastinator's argument,  
Snail's-pace argument; and  
Artful diversion.

9. *No Complaint.*

A remedy being proposed for some incontestable abuse, it is frequently objected that *no complaint* on the subject has been heard; and the argument amounts to this, "Nobody complains, therefore nobody suffers." Now if government exists for the benefit of the community, measures of precaution and prevention ought to be as much within its province as measures of redress: but the fallacy in question goes to establish a maxim in legislation, opposed to the most ordinary prudence of common life: it would tell us to abstain from building parapets to a bridge, till the number of accidents had raised a universal clamour. The argument, indeed, might be less absurd, if complaints could be made without difficulty or expense,—if they were likely to be attended to,—or if the parties suffering had sufficient knowledge to be able to ascertain the causes of their distress. It is difficult, for instance, to conceive a greater mass of suffering than that occasioned by the denial of justice;—by the uncertainty, delay, and expence, which put justice out of the reach of nine-tenths of the people; and yet the greater number of men, instead of ascribing this suffering to the palpable defects of our judicial institutions, are wont to conceive it an inevitable concomitant of law in general, and instead of uniting in complaints to the legislature, submit to the evil with the same kind of patience as they would endure an earthquake, or any other unavoidable physical calamity. In like manner, from the prevailing ignorance with regard to legislation, the cause of numerous and severely felt evils, has scarcely come to be suspected by the mass of mankind. If therefore the legislator refuse to correct an evil, because from ignorance, or any other reason, the people omit to complain, he proves that his end is not the public advantage, but his own.

10. The fallacy of *False Consolations*

Consists in holding out the misery of other nations as a reason for remaining satisfied with the condition of our own.

The fallacy is almost too gross to admit of further exposure than is contained in the mere statement of it. Pushed to its consequences it opposes every step in the progress of human improvement,—for with the exception of the single nation at the bottom of the scale, there is none of whom it may not be said there are others more miserable than themselves. If the end of government be the production of the greatest degree of happiness, it is no advance towards that end to indicate the misery of others. Few would venture to maintain that our roads ought not to be improved because they have worse roads in France, or that a tradesman ought not to receive the whole of his debt, because neighbouring tradesmen may have lost half theirs; and yet, in the debates

on Negro Slavery, it has been gravely argued that nothing need be done for the blacks, because their condition is less bad than that of five millions of Irish. Admitting the fact to be true, if it is meant to be inferred that nothing should be done for the blacks, because the Irish labourers are starving, it is scarcely possible to conceive a more imbecile or nofarious argument.

### 11. *The Procrastinator's argument,*

Is the resort of a dishonest opponent, who seeks to postpone and elude a question, and to obtain ultimate impunity or success by wearing out the other side, with delay. "*Wait a little—this is not the time!*" Such is commonly the naked assertion and exhortation;—but unless it is very clearly shown *why* this is not the time, it must be obvious that the objection exists not in the judgment but in the will. Is it lawful to heal on the Sabbath? was the question put by Jesus to the official hypocrites. The proper day to do good—the proper day to remove a nuisance,—is the first day on which it can be done: Who ever opposes it on that day, will, if he dare, oppose it on every other.

### 12. *Snail's-pace Argument; or, Gradual Change.*

This fallacy, of the same nature as the last, is one of the most frequent and efficacious among those resorted to by the enemies of improvement.

A plan is advanced, which requires a certain number of concurrent acts to render it efficacious; the fallacy proposes to enter on them one by one, and to frustrate the scheme by disjoining it. This method of proceeding is termed *gradual*; its advocates taking credit to themselves, as moderate, sound, practical men, and of course stigmatising their opponents as violent, precipitate, visionary, theoretical, &c. The argument derives its influence from the mode in which abstract terms are taken metaphorically from physical objects. A patient killed by rapid bleeding,—a carriage overturned by runaway horses,—a vessel upset by carrying too much sail; such are the ideas connected with the word *precipitation*; while the opposite of them are conveyed by the word *gradual*, so that whenever precipitation is objected to a legislative measure, it never fails to excite a host of indefinite apprehensions. But where the proposers of any such measure are fairly chargeable with undue haste, the obvious and assignable consequences of their precipitation may be at once pointed out, and would afford unanswerable arguments against them. When instead of this, recourse is had to a vague recommendation of graduality, we may be satisfied that the opposers of the measure have no real objections to urge. As where the scope of a plan, is, to remove by some one measure, a number of abuses, each connected with the other; supposing the plan to have been maturely and deliberately framed, none but a person interested in the support of the abuses, would object to a general abolition of them, or claim credit for wisdom and moderation in suggesting a removal one by one. Take, for instance, a plan for abolishing all gaol-fees; none but a gaoler would condemn the plan as precipitate because it included all the gaols in the country, or would have the impudence to plume himself upon his wisdom and moderation for proposing instead, a gradual and successive abolition; as for Newgate,

one year; for the Fleet prison, the next; for the King's Bench in a third; and so on for a century. Transfer the scene to domestic life, and suppose a man who has run himself into debt by keeping six race-horses, when he has only the means of keeping one:—an advocate of the gradual system would recommend to his friend something of this sort;—Spend the first year in considering which of your horses to give up; the next year, if you can satisfy yourself which it shall be, give up one: by this sacrifice, the sincerity of your intentions and your reputation for economy will be established, and you need think no more about the matter.

### 13. *Fallacy of artful diversion.*

A measure is proposed, which, on account of its obvious utility, can neither be safely attacked, nor openly resisted:—The fallacy consists in suggesting some other measure which bears a similarity in name or nature to the original plan, and in promising to bring it forward at an early opportunity. You then give formal notice of your intention to propose this measure. The matter is of too great importance to be compassed in the same Session; you accordingly announce your intention for the next Session. When the next Session comes, the measure is of too great importance to be brought on the carpet at the commencement of the Session; at that period it is not mature enough: If you cannot delay it any longer, you bring it forward just as the Session closes. Time is thus gained, and without any decided loss on the score of reputation, for what you undertook has been to the letter performed. When the measure has at length been brought in, you may take your choice between operations for further delay, and operations for frustrating the original plan: If you choose delay, extreme difficulty and extreme importance are themes on which you blow the trumpet, and which are sure to be sufficiently echoed. If you prefer complete frustration of the original plan, you substitute another, bearing no relation to it but identity of name.

## IV. FALLACIES OF CONFUSION.

Of this class we shall have to examine fourteen:—

Question-begging appellatives.

Sham distinctions.

Impostor terms.

Vague generalities.

Allegorical idols.

Sweeping classifications.

Reproach of popular corruption.

Anti-rational fallacies.

Paradoxical assertion.

Cause and obstacle confounded.

Fallacy of partiality.

The end justifies the means.

Not measures, but men.

Opposer General's argument.

### 14. *Question-begging appellatives.*

The nature and unhappy frequency of appellatives of this kind have already been fully brought to view in the opening of this treatise.

The fallacy consists in assuming the point to be debated, by employing, instead of neutral terms, terms eulogistic or dyslogistic, as may best serve the purpose of the moment. Thus if you wish to recommend a proposed *change* or *alteration*, (neutral terms,) in which never-

theless, you are unable to point out any assignable advantages, you call it boldly an *improvement*; (the eulogistic term:)—if you are hostile to the change, but at the same time are unable to specify any preponderating inconvenience as likely to result from it, you brand it at once with the dyslogistic term, *innovation*; which having happily for your purpose, contracted a bad sense, means something which is new and bad at the same time, and so saves you the trouble of any further argument. In this same manner you designate your own belief and practice with regard to spiritual matters, as religion, piety, zeal, orthodoxy, and so forth; the belief and practice of those who differ from you, as superstition, credulity, fanaticism, blasphemy, and the like. The only way to expose an orator who deals largely in these terms is drily to shew that the *thing* of which he is speaking may always be characterised under three different *names*, according to the temper of the speaker; but the potency and extent of this instrument of deception are most deplorable. Our ideas of things are so intimately associated with the words which usually represent them, and so large a proportion of words in addition to the thing they represent, represent also as inseparably connected with it, some sentiment of approbation or disapprobation, that it is a matter of reflexion and enquiry to detach the one from the other, and to view the thing simply for the purpose of close examination. The speaker often employs a word of this cast, without any intention to deceive, and the hearer often falls into the snare without suspecting its existence.

Of the same nature as the foregoing fallacy, and closely allied to it, are—

(15.) *Sham distinctions,*

By which, sham approbation, accorded to a state of things under its eulogistic name, is employed as a mask or cloak for the real opposition made to the same state of things under a dyslogistic name. Take, for example, *Liberty* and *Licentiousness of the Press*. The benefit derived to the community, by allowing the press to give publicity to the official faults and errors of public men, is so incontestable, that few will openly declare themselves hostile to the *Liberty* of the press. This benefit however cannot be attained without some attendant inconvenience. The press, like every thing of human origin, is fallible, and along with true imputations, false ones will occasionally be made: till the law has defined what is libellous, observations will often wander from the public to the private conduct of the individual arraigned; and the observations will be couched in language more or less acrimonious and vituperative. In this state of things there are no means of excluding unjust and coarse attacks, without excluding just ones also; an alternative to which no friend of the people would resort if the benefit arising from the power of making just accusations preponderated over the inconvenience of admitting occasional unjust ones. About this there can be no doubt. Without the check of the press, the misdoings of public men are subject to no other control than that of impeachment by law; and if, as generally happens, they are themselves the arbiters of impeachment, the press is the only safeguard against all the evils of arbitrary power:—such is the extent of the benefit. The inconvenience, on the other hand, is in reality slight: the channel which has been used for attack is equally open for defence, and truth



must quickly prevail if the individual attacked be innocent ; it ought also to be remembered, that the public man will resort to this defence, with the advantage of having at command all the wealth and talent of the country ; that censure is the tax which has always been submitted to by eminence, and that he who accepts a public situation has no more right to complain that his conduct is freely scrutinized, than a soldier, that he is shot at in battle.

The enemy of the liberty of the press, however, fastens upon the inconveniences inseparable from it in the absence of a clear law of libel ; these inconveniences he stigmatizes with the appellation of *Licentiousness*, and under pretence of suppressing licentiousness, would in effect annihilate all freedom of discussion. In truth, when his meaning comes to be sifted, it appears that the *licentiousness* of the press is the disclosure of any abuse from which he or his derive advantage, and from the indication of which they are liable to sustain loss or shame ; the liberty of the press is such disclosure, and such only, from which they apprehend no inconvenience to themselves.

Next in order come—

(16.) *Impostor terms,*

By which, in order to justify or disguise a thing indefensible under its real name, recourse is had to some more general term, which together with the indefensible thing includes others, the objects of approbation. The word *gallantry*, for instance, has two senses ; in the one it denotes on the part of the stronger sex the disposition to manifest towards the weaker that attention and kindness which so peculiarly distinguishes civilized from savage life ; in the other it is, in the main, synonymous to *adultery*.—Now, say of a man that he has committed *adultery*, and he shall scarcely thank you for the compliment ; insinuate the same thing by calling him a man of *gallantry*, the complacency of his smile will indicate his self satisfaction, and show how little he disclaims the charge, although there may be no foundation for it in fact. To take another example—If there be any meaning in the word representation, it is totally incompatible with a system of election procedure, which induces or enables an elector, from the hope of private profit or the fear of private loss, to vote for a candidate whom he would not otherwise have supported ; to defend such a system under its true appellation, *corruption*, would be impossible : its abettors therefore speak of it by an ambiguous word, expressing in one sense this state of facts which they cannot deny, and in another, another state of facts to which no one could object. This word is, *influence*. *Influence of the Crown ; Influence of Property*. Now influence is of two kinds. Influence of will on will ; influence of understanding on understanding. In the exercise of the former arise all the evils occasioned by despotism or aristocracy.—The exercise of the latter is no other than the exercise of human reason, a guide which like other guides is liable to err ; but which in political as well as private matters is the only guide we can procure, or ought to follow.

But when the present state of election procedure is admitted to be subject to the *influence of the crown*, or the *influence of property*, the hearer, doubtful, perhaps, in which of the two senses the word influence is applied, receives it for the most part with an indistinct if not an absolute sentiment of approbation.

17. *Vague generalities.*

An expression is *vague* and ambiguous, when it designates by one and the same appellation an object which may be good or bad, according to circumstances; and if in the course of enquiry touching the qualities of such an object such an expression is employed without a recognition of this distinction, the expression operates as a fallacy. Take for instance the terms *Government, Laws, Morals, Religion*: each of these may be good or bad according to circumstances; for no one will deny that there have been, and still are, bad governments, bad laws, bad systems of morals, and bad religions.

The bare circumstance, therefore, of a man's attacking government, law, morals, or religion, does not of itself afford the slightest presumption that he is engaged in any thing blameable: if his efforts are directed only against that which is bad in each, they may be productive of good to any extent. This essential distinction the defender of abuse takes care to keep out of sight, and boldly imputes to his opponent an intention to subvert all government, laws, morals, or religion.

This is usually done, rather in the way of insinuation than of direct assertion.—Propose any thing with a view to improving the actual practice in government, law, or religion, you are immediately treated with an oration on the necessity of maintaining these objects of general regard, from which oration the hearer is desired to infer that the existence of them is incompatible with the measure proposed. It is with this view that in political debates recourse is so frequently had to such expressions as *Order; Social Order; Establishment; Matchless Constitution; Balance of Power.*

*Order, —Social Order,*—can mean little more than that state of things which is agreeable to the speaker; for the system established under Caligula or Bonaparte, was by each of them probably styled and esteemed the perfection of social order. For this indefinite expression substitute one more precise, and the Sophist is immediately defeated; instead of enquiring in what way a measure proposed may affect *social order*, ask what bearing it has upon the *greatest happiness of the greatest number*, and the apprehensions excited for the fate of social order will probably be soon allayed.

The same observations apply to the word *Establishment*, whether of church or state.

So as to *Matchless Constitution*!—if the constitution means the actual state of government, it has at least some bad points as well as good. It affords facilities for waste of public money, depredation, and oppression in almost every department. Now in their own names, Waste, Depredation, and Oppression cannot be toasted: Gentlemen cannot cry, Waste for ever! Depredation for ever! Oppression for ever! but, The Constitution for ever! This they may and do cry, and make a merit of it. Applied to the government of England, the word Constitution is pre-eminently indeterminate and unmeaning. As a designation of the collective securities for any specific mode of government, the word is perfectly precise; but in England no definite plan of government has ever been drawn up or established. The constitutions of the French and American republics, of the kingdom of Holland, and of other countries, have been reduced into form—the securities for their respective administration defined one by one, and published in a book. It

is needless to say that no such record of the English Constitution has ever appeared; and that the word, as applied to the English government, can denote no settled form of polity, but only that form to which it suits the speaker's interest to apply it. A political constitution, however, of some sort, being essential to the public welfare, the epithet *constitutional* has acquired in the abstract a eulogistic sense, and impresses the unreflecting with some notion of undefined excellence. How fatal this error may become, where what is constitutional depends on the authority of the speaker, it is not difficult to perceive.

It is scarcely necessary to pursue the investigation farther.

*Balance of Power*, as between the three branches of the state, King, Lords, and Commons, is an expression absolutely devoid of meaning; the functions of government cannot be performed without action; but bodies in equipoise must, with reference to each other, be entirely at rest.

### 18. *Allegorical Idols.*

This fallacy, which is only a modification of the preceding, consists in substituting for men's proper official denomination, some general term to which an idea of excellency is attached: as *government*, for the members of the governing body; the *church*, for churchmen; the *law*, for lawyers. The device is used with the view of securing to individuals, and to the bad parts of an institution, the respect attached to the institution at large, and by that means, of exempting them from the control of public opinion. Propose to examine the conduct of a minister,—point out an abuse from which he derives an advantage,—the answer is at hand; “you are an enemy to the government.” So, in whatever manner the imperfections in the church establishment are brought to notice;—the disproportion between pay and service, for instance, or the pernicious effects of tithes,—the cry of “enemy to the church,” at once overwhelms the assailant.

### 19. *Sweeping Classifications.*

The fallacy of Sweeping Classifications ascribes to one individual the qualities possessed by another, merely because the two have been classed together under a common name. The fallacy is equally applicable to undeserved eulogy as to undeserved censure; when employed for the purpose of undeserved censure, it scarcely differs from that species of vituperative personality which has already been noticed as “Imputation founded on identity of denomination.” The injustice with which the Catholics of the present day are charged with a disposition to renew the barbarities of their ancestors, was fully pointed out under that section, and one example more will now suffice.

In the heat of the French revolution, when Louis was yet on his trial, among the means employed for bringing about the result that followed, was the publication of a pamphlet entitled “The crimes of Kings.” The object of the writer was obviously to ensnare his readers into some such reasoning as the following: “Criminals ought to be punished: kings are criminals, and Louis is a king; therefore Louis ought to be punished.” It is needless to expose so gross a fallacy. But it was with a view to the same kind of reasoning that during one of the debates on Catholic Emancipation, a book was put forth with the title of “Cruelties of the Catholics.”

20. *Reproach of Popular corruption.*

This fallacy consists in imputing to the people such a degree of political depravity and corruption, as to render useless any changes in our system of representation. "Instead of reforming Parliament, reform yourselves;" "The corruption is in the people not in the government." Such is the tone usually assumed, and which, whether sincere or affected, is the result of a thick confusion of ideas. The charge is, that the governed will, like the governing, sacrifice when they can, to their private interest, their share in the general interest of the community; and instead of exercising in the choice of representatives a discretion beneficial to the public, will vote for the individual who has most ability to serve their private interests if they favour him, or to injure them if they vote against him.

That, in the present state of political knowledge, they will do this for the most part when they can, is pretty clear, from the predominating influence of that regard for self which has already been explained, as so necessary not only to our welfare, but to our very existence. Unchecked by laws and by appropriate political institutions, this feeling, so salutary in the main, will unquestionably in some directions be productive of pernicious effects, but this affords the stronger reason for framing and establishing those appropriate institutions, instead of ignorantly lamenting the existence of the feeling, or reproaching the people with a more than ordinary submission to its influence. If there be any means by which it can be rendered impossible for an elector to serve his private interest at the expence of the general interest of the community; if all motives to do this can be removed out of his way, and the only motives which shall be left to operate upon him, shall be those which will induce him to further to the best of his ability his share in the general interest of the community, it is unjust and absurd to reproach him with yielding to a temptation which it is the duty of the legislature to remove out of his way.

That such means may easily be found, cannot be doubtful to those who have considered the mode of election procedure by ballot. When the candidate has no means of ascertaining with certainty which way the elector has given his vote, it is useless to threaten, foolish to promise, and almost lost labour even to canvass. When the elector is protected, if he chooses, by the secrecy of this mode of procedure, from being deprived of his farm or his customer, for giving a conscientious vote; when no man will offer him a bribe even though he be willing to receive it, because it can never be ascertained whether or not he has voted as the briber directs; no course remains but to serve the general interest, by voting for an able and upright man.

21. *Anti-rational fallacies.*

When reason is adverse to a man's interests, he will naturally feel an antipathy to any exercise of the faculty, and so long as abuses exist in the administration of government, they who profit by them will endeavour to render the powers of reason, and even thought itself, an object of contempt. This is accomplished by speaking of every intellectual process in a tone of sarcasm and ridicule. If a plan does not suit the interests of an official person, who is unable to assign any

valid objection against it, he saves himself the trouble of rational discussion, by pronouncing it *speculative* or *theoretical*; he will hold up the word *theory*, and even *plan*, *project*, *system*, as exciting ideas of distrust and apprehension. "Looking at the House of Commons," says one of these orators, "my object would be to find out its chief defects, and attempt the remedy of them one by one," (snail's-pace argument,) "To propose no *system*, no great *project*, nothing which pretended even to the name of a *plan*, but to introduce in a temperate and conciliatory manner, one or two separate bills."

Now a theory is formed out of general conclusions drawn from the collection and comparison of facts. Facts taken alone and by themselves are altogether useless; and the sum of every man's knowledge is in effect made up of the number and extent of his theories. Undoubtedly there are bad theories as well as good; but it would be as absurd to proscribe all theory, because some is bad, as to proscribe all reasoning, because some reasoning is a vehicle for fallacy.

The honest course in such cases is, not to condemn a theory, plan, or system, merely because it is a theory, and bears the marks of rational contrivance, but to examine and point out in what respect, if any, it is likely to prove defective. If this were done, instead of the absurd expression which we often hear from the unreflecting, that a thing may be *good in theory*, but *bad in practice*, it would be found that whatever was bad in practice must be bad in theory also.

Thus, the scheme for lighting the streets with gas, held out to those who proposed to engage in it a larger profit than was warranted by the result; but upon examination of the scheme it was afterwards discovered that the projector had in his calculations inadvertently omitted the expence of iron pipes for conveying the gas. As to the expected profits, therefore, the project was bad in practice, because it was bad in theory. If indeed a theory is nothing more than from a general survey and comparison of the means in possession and the end in view, to adapt the one to the other for the purpose of practice, it is not easy to perceive how that which is bad in practice can be good in theory. According to this strange absurdity, the very goodness of a plan, has sometimes been urged as a ground for its rejection. "*It is too good to be practical.*:" an objection which has been sufficiently answered by the foregoing exposition.

To the epithets *speculative* and *theoretical*, are often added in the same sense, or by way of aggravation and climax, those of *visionary*, *chimerical*, *romantic*, *Utopian*. If these words have any meaning beyond that of the speaker's dislike to the measure against which he directs them, it is, that in his estimation the measure is impracticable. If this be so, it would be so easy to state why he entertains such an opinion; what he esteems to be difficulties in the way of carrying the measure into execution; what the causes of its probable failure; that when in lieu of this, he merely resorts to vituperative and contemptuous expressions, it may safely be inferred he has no such objections to urge.

Besides the set who find their account in every instrument of delusion which can mystify the intellects of mankind, the anti-rational fallacies are singularly acceptable to three extensive classes of men.—To the idle and frivolous, who hate the trouble; to the ignorant, who have

not the means; and to the dull, who have not the power of thinking on intricate and extensive subjects. Their ease and their vanity conspire in inducing them to get rid of thought, and these fallacies are the most efficient instruments for the purpose: an expression of scorn levelled at the author of this trouble, is at once likely to operate as a suppression of the evil, and as a punishment, however inadequate, for the disturbance attempted to be given to honourable repose.

## 22. *Paradoxical Assertion.*

The object of the preceding fallacy, is, as we have seen, to bring into disesteem the faculty of reason itself. The fallacy of *paradoxical assertion* proposes to cast discredit on the only modes in which reason can be usefully employed. With this view the *principle of utility*, (or that which seeks to establish the greatest happiness of the greatest number, as the paramount object of morals and legislation,) has been denounced as a useless or even dangerous principle; classification, method, and simplification, as frivolous impediments to knowledge, and political disinterestedness, as a mark of the basest profligacy\*.

The object of those who pronounce in the same breath, the extravagance, that things which are useful, are at the same time and on that very account, not useful, is the same as theirs who decry that quality of discourse which is known by the name of method or classification. By following a methodical rule the elements of good and bad are extracted from the details of every measure, and brought to view in the state best fitted for comparison. How far the opposite state of confusion and darkness, is better suited to the purposes of those who profit by a system in which the interests of the many are sacrificed to the interests of the few, is too obvious to require further elucidation. It is true, that in order to arrive at correct conclusions in the application of the principle of utility, a concurrence of intelligence, discernment, patience and integrity, is requisite; of each of them, no inconsiderable amount; while nothing more than a moderate share of ignorance, impudence, and improbity, is necessary to qualify a man for pronouncing decisions in the true *ipse-dixit* style; but whether it be safer to act on decisions so pronounced, than to search for correct deductions from the principle of utility,—whether the compass should be thrown overboard, because it occasionally varies,—whether the principle of utility should be stigmatised as dangerous, and abandoned, because men may occasionally err in the application of it,—is left to the ingenious reader to determine.

## 23. *Cause and Obstacle confounded:—*

*Non causa pro causa; or Cum hoc, ergo propter hoc.*

In every political system of long standing, which has not been produced in prosecution of any comprehensive design, but piecemeal, at different and distant times, according to the predominance of conflicting interests, among the incidents which may compose the general result, some will be found to have operated as promotive causes, others as obstacles, and others, as uninfluencing circumstances. It is obvious, that if the system contain any good points, the beneficial effects

\* See Burke's pamphlet on his Official Economy Bill.

arising from them are not occasioned by the abuses or imperfections of the system, but that such abuses must have operated as obstacles.

The fallacy in question consists in representing the obstacles, or at least the uninfluencing circumstances as the cause of the beneficial results ; it is the converse of the preceding fallacy, which represented evil as occasioned by good ; whereas this represents good as occasioned by evil.

It would be easy to shew, for instance, if this were the proper place, that if the English have been less ill-governed and more prosperous than other European nations, such comparative exemption from mis-government, and such prosperity, have been mainly occasioned by the greater degree of *publicity* which, through the press and other means, has always attended our legislative and judicial proceedings ; this publicity having created a tribunal of public opinion, to which, in the long run, our rulers have been more or less obliged to submit. It would be equally easy to shew, that among the causes which have contributed to promote misgovernment, and impede us in the career of prosperity, the most active and prevailing has been the system of our parliamentary representation : a system, by which a few powerful families are, to a considerable extent, enabled to apply to their own purposes the immense sums of money annually collected from the people in the way of taxation.

The orator, however, who profits by this disposition of the public money, and has, therefore, some small interest in supporting this state of the representation, jumbles together publicity, representation, (*virtual* representation as he calls it,) hereditary monarchy, and an hereditary court of justice, in one lump, which he calls the system, or the constitution, and then expatiating on the general prosperity of the country, affirms, that the system “works well in practice ;” by this he would have it inferred, and the illogical heads of his hearers intoxicated by his glowing descriptions, have accordingly inferred, that the prosperity so described, is entirely owing to that virtual representation, which, by the waste of the public resources, has mainly contributed to check its career. Much in the same way, the influence of the crown and the seats possessed by the bishops in the House of Lords, have been represented as being among the causes of good government ; the system of education pursued at the universities, as the cause of national learning ; the usury laws, as the cause of national wealth ; and the opulence of the clergy as the cause of national virtue.

Luckily, it is easy to discomfit by the single monosyllable “How ?” the sophist who employs this fallacy ; if these effects are produced by this cause, shew us *how* : we cannot admit it upon unsupported assertion

Real knowledge depends in a great degree on the being able to distinguish from each other, causes, obstacles, and uninfluencing circumstances, and if the querist is able to pursue this division, he will have little difficulty in exposing the ignorance or dishonesty of his opponent.

#### 24. *Fallacy of Partiality.*

“*From the abuse argue not against the use.*”

When abuses are too plain to be denied, the system may yet be de-

fended by the old and pernicious maxim, "From the abuse argue not against the use," by which it is proposed, that in taking an account of the effects of an institution, you should set down all the good effects, and omit all the bad ones.

The point to be ascertained in every such enquiry, is, which predominate; if it be shewn that the bad predominate—that the good are so few as not to compensate for the bad—it is obviously just and necessary, from the abuse, to argue against the use.

#### 25. *The end justifies the means.*

Yes: but only on three conditions, either of which failing, the justification fails also: One is,—That the end be good. The second,—That the means be either purely good, or, if evil, having less of evil in them, than on the balance, there is of good in the end. The third,—That they have more good or less evil in them than any others by the employment of which the end might have been attained. Laying out of the case these restrictions, note the absurdities which would follow. The procuring a penny loaf is the end I aim at; the goodness of it is indisputable: if by the goodness of the end, any means employed in the attainment of it are justified, instead of a penny I may give a pound. Thus stands the justification on the score of prudence: or instead of giving a penny, I may cut the baker's throat and get it for nothing; and thus stands the justification on the ground of beneficence and benevolence.

In politics, this fallacy in the mouth of the *Ins*, has served, and will serve, for the justification of whatever cruelties those by whom power is exercised, may find a pleasure or profit in committing on those over whom power is justified. In the mouth of the *Outs* it has a manifest alliance with, and constitutes, in fact, the practical result of the fallacy which follows next: viz.—

#### 26. *Not Measures but Men.*

A fallacy mainly resorted to by the *Outs*, who would imply by it, that good government can never be attained by any *measures* of their opponents in office, but can only be brought about by changing those opponents for another *set* of individuals, to wit, the *Outs*, whose rigid virtue is to be the main security for a just exercise of the ruling power. To this end, it is represented, not only as allowable, but commendable for a member of the *Outs* to speak and vote against a measure of the *Ins*, although he may deem the measure itself beneficial; or to support a measure of the *Outs* although he may deem it pernicious: in other words that the end is such as to justify the pursuit of it by means of gross improbity.

Now what does this end assume? that they who pursue it are a class of beings exempted from the common incident of humanity;—the disposition to prefer self to others;—that they alone are ready upon all occasions to sacrifice their private interest to the interest of the community; and that though the *Ins* cannot be trusted with power for want of adequate checks in the constitution to secure the just use of it, the *Outs* may be trusted without any alteration in the system, without the establishment of those checks, the absence of which enables the *Ins* to do so much mischief.



This exposition is of itself a sufficient exposure of the fallacy; and the annals of mankind may shew how far such exceptions to the general laws of human nature have ever yet been witnessed,—how far such impudent pretensions have any foundation in fact. The general predominance of personal over social considerations is sufficiently attested in the existence of laws which hold out the fear of punishment as a check to the thereby acknowledged propensity in men, to prefer themselves to others.

Political institutions having originated for the most part in ignorant and barbarous ages, the contrivers of them had not sufficient knowledge or integrity, to devise in matters of government, those apposite direct and indirect means for regulating the predominance of personal considerations, which to a certain extent have been attained in matters of jurisprudence. Instead therefore of reposing confidence in quacks, who, upon no better evidence than their own assertions, and in opposition to the unvaried experience of ages, call upon us to believe that they alone are exempt from the operation of that self-regard which is necessary for the welfare and existence of man, we ought so to alter our defective institutions, as by means of a system of apposite checks and regulations, to direct the self regard of even the most selfish among the governing body, in a course which shall not fail to promote the benefit of the governed.

27. *Opposer General's argument.*

This is a fallacy from the same quiver as the preceding.

When a measure is so clearly beneficial that specific objections cannot be found, the only hope of depriving the Ins of the credit they are likely to obtain, is, by an attempt to reject the measure altogether on the pretence of a regard for economy; or by denouncing it as a job; that is, fraught with advantage to some assignable individual; or as likely to increase the influence of the crown.

Assuming the measure to be one of those in which these inconveniences, to whatever they may amount, are not preponderant over the proposed public advantage, it is clear that a man of probity, whose object is not merely to deprive an opponent of credit, will suggest, not rejection, but amendment: if the measure can be duly accomplished at less than the estimated expence, he will shew *how*, in detail, and so consult the interests of economy; if the advantage to some single individual will interfere with the interests of the public, he will shew *how*, and propose to amend the measure by excluding that lot of advantage;—supposing that advantage not to interfere with the interest of the public, it is clearly an additional recommendation to the measure, for public advantage is only made up of the sum of individual advantage:—if the supposed accession to the influence of the crown be an avoidable evil, he will shew *how*; if not avoidable, still he will not propose to reject the measure unless he can clearly establish that the influence is increased to such a degree as to constitute an amount of evil which will outweigh the projected advantage.

If in lieu of these details, in lieu of possible amendment, he insists upon rejection on the mere cry of *Economy; Job; Influence*; these are cries which might equally be directed against any measure which ever has been or can be proposed or carried, and therefore clearly indicate

the absence of any specific and preponderating objection to the measure in hand.

The same observations apply to every case in which inconveniences, remediable or not preponderant, are urged as grounds for the entire rejection instead of the amendment of a measure generally beneficial.

Here, for the present, we close our examination of these mischievous instruments of Deception.

The Treatise, as the intelligent reader will not fail to have perceived, is nothing more than a condensation and new arrangement of the matter contained in "The Book of Fallacies," and in the French Version of the same matter, which may be found in the second volume of the *Tactiques des Assemblées Législatives*. With the profound writers of those works we may regret that the catalogue is far from complete—the exposure far from perfect; but until some abler hand shall have supplied the deficiencies of our execution, we trust that the present attempt may be found not unserviceable to the cause of improvement and the best interests of mankind.

#### TABULAR VIEW OF THE CHIEF POLITICAL FALLACIES.

##### I. FALLACIES of AUTHORITY, To supersede all exercise of reason.

1. Wisdom of Ancestors.
2. No precedent.
3. Irrevocable laws.
4. Laudatory personalities.

##### II. FALLACIES of DANGER, To repress discussion by exciting apprehension.

5. Vituperative personalities.
6. Incitement to distrust.
7. Dread of Innovation.
8. Screen for offenders in office.

##### III. FALLACIES of DELAY, To postpone discussion with a view of eluding it.

9. No complaint.
10. False consolation.

11. Procrastinator's argument.
12. Snail's-pace argument.
13. Artful Diversion.

##### IV. FALLACIES of CONFUSION, To perplex when discussion cannot be avoided.

14. Question-begging appellatives.
15. Sham distinctions.
16. Impostor terms.
17. Vague generalities.
18. Allegorical idols.
19. Sweeping classifications.
20. Reproach of popular corruption.
21. Anti-rational fallacies.
22. Paradoxical assertion.
23. Cause and obstacle confounded.
24. Fallacy of partiality.
25. The end justifies the means.
26. Not measures but men.
27. Opposer General's argument.

## SESSION OF 1825.—6th GEO. IV.

On THURSDAY, Feb. 3d, the Session of Parliament was opened by Commission from His MAJESTY.

### THE KING'S SPEECH.

The Commons being summoned to the House of Lords in the usual form, and the commission being read, the LORD CHANCELLOR read His Majesty's speech as follows:—

*"My Lords and Gentlemen,*

"We are commanded by His Majesty to express to you the gratification which his Majesty derives from the continuance and progressive increase of that public prosperity, upon which His Majesty congratulated you at the opening of the last session of Parliament.

"There never was a period in the history of this country, when all the great interests of the nation were at the same time in so thriving a condition, or when a feeling of content and satisfaction was more widely diffused through all classes of the British people.

"It is no small addition to the gratification of His Majesty, that Ireland is participating in the general prosperity. The outrages, for the suppression of which extraordinary powers were confided to His Majesty, have so far ceased, as to warrant the suspension of the exercise of those powers in most of the districts heretofore disturbed. Industry and commercial enterprise are extending themselves in that part of the United Kingdom. It is, therefore, the more to be regretted, that associations should exist in Ireland, which have adopted proceedings irreconcilable with the spirit of the Constitution, and calculated, by exciting alarm, and by exasperating animosities, to endanger the peace of society, and to retard the course of national improvement.

"His Majesty relies upon your wisdom to consider, without delay, the means of applying a remedy to this evil.

"His Majesty further recommends the renewal of the inquiries instituted last session into the state of Ireland.

"His Majesty has seen, with regret, the interruption of tranquillity in India, by the unprovoked aggression, and extravagant pretensions of the Burmese Government, which rendered hostile operations against that state unavoidable. It is, however, satisfactory to find that some of the other Native Powers have manifested any unfriendly disposition, and that the bravery and conduct displayed by the forces already employed against the enemy, afford the most favourable prospect of a successful termination of the contest.

*"Gentlemen of the House of Commons,*

"His Majesty has directed us to inform you, that the estimates of the year will be forthwith laid before you.

"The state of India, and circumstances connected with other parts of His Majesty's foreign possessions, will render some augmentation in his military establishments indispensable.

"His Majesty has, however, the sincere gratification of believing, that notwithstanding the increase of expense arising out of this augmentation, such is the flourishing condition, and progressive improvement of the revenue, that it will still be in your power, without affecting public credit, to give additional facilities to the national industry, and to make a further reduction in the burdens of his people.

*"My Lords and Gentlemen,*

"His Majesty commands us to inform you, that His Majesty continues to receive from his Allies, and generally from all Princes and States, assurances of their unabated desire to maintain and cultivate the relations of peace with His Majesty, and with each other; and that it is His Majesty's constant endeavour to preserve the general tranquillity.

"The negotiations which have been so long carried on through His Majesty's Ambassador at Constantinople, between the Emperor of Russia and the Ottoman Porte, have been brought to an amicable issue.

"His Majesty has directed to be laid before you, copies of arrangements which have been entered into with the kingdoms of Denmark and Hanover, for improving the commercial intercourse between those States and the United Kingdom.

"A treaty, having for its object, the more effectual suppression of the slave trade, has been concluded between His Majesty and the King of Sweden, a copy of which treaty (as soon as the ratifications thereof shall have been exchanged) His Majesty has directed to be laid before you.

"Some difficulties have arisen with respect to the ratification of the treaty for the same object which was negotiated last year between His Majesty and the United States of America. These difficulties, however, His Majesty trusts, will not finally impede the conclusion of so beneficial an arrangement.

"In conformity with the declarations which

have been repeatedly made by His Majesty, His Majesty has taken measures for confirming by treaties the commercial relations already subsisting between this kingdom and those countries of America which appear to have established their separation from Spain. So soon as these treaties shall be completed, His Majesty will direct copies of them to be laid before you.

"His Majesty commands us not to conclude without congratulating you upon the continued improvement in the state of the agricultural interest, the solid foundation of our national prosperity; nor without informing you, that evident advantage has been derived from the relief which you have recently given to commerce by the removal of inconvenient restrictions.

"His Majesty recommends to you to persevere (as circumstances may allow) in the removal of similar restrictions; and His Majesty directs us to assure you, that you may rely upon His Majesty's cordial co-operation in fostering and extending that commerce, which, whilst it is, under the blessing of Providence, a main source of strength and power to this country, contributes in no less a degree to the happiness and civilization of mankind."

Their Lordships then adjourned, and re-assembled at five o'clock.

#### THE ADDRESS.

The Speech having been again read:—

Lord Dudley and Ward rose to move an humble address in answer to the Speech. Having enlarged upon the various topics contained in the speech, particularly the financial and commercial prosperity of the country, and the commercial policy of Ministers; he justified the late recognition of the various states in South America, from the aspersions of the Continental party, known in France, under the name of *ultras*; a party which he described as eminently hostile to this country, whose glory and wealth they envied, and whose constitution they regarded as at variance with the principle of legitimacy. As long as any chance of recovering her colonies remained, we had declined to recognize the South American States, out of deference to Old Spain. He observed that to compare the situation of Spain and her colonies, with that of Great Britain and our American settlements, during the American war, as was done by the despotic party on the Continent, was absurd. The question between Spain and her dependencies was in fact settled, by the latter having achieved their independence; at the period referred to, our colonies were not in that condition; as soon as they were, their independence was acknowledged also. He next adverted to that part of His Majesty's speech which relates to Ireland. That country had participated in the general prosperity, though in a less degree. The effects of that participation were seen in the increased rent of land, and the general tranquillity of the country. It had been too much the fashion to speak of Ireland as an ill-used country. He could not say that England had always behaved towards Ireland with perfect justice; but the system of government had been greatly altered during the late reign, and was completely changed by the union of the two countries. Since that time, the welfare of Ireland had been an object of anxious care to the United Parliament. Upon an occasion like the pre-

sent, he was anxious to avoid topics which might lead to extended discussion, yet the state of Ireland, though it was a subject on which he should not say much, was one which could not be passed over in silence. The final settling of the troubles in Ireland depended upon doing justice to the Irish Catholics, (hear, hear.) Sooner or later, concession on that point would be inevitable. It was a question, certainly, of the greatest importance, but he did not think it of such a nature that those members of his Majesty's Councils, who were known to favour it, ought to prosecute it at the risk of dissolving the Government of which they formed a part. The claims of the Catholics were supported by all friends to toleration, who held this vantage ground in every argument. It must be confessed, however, that the maxims upon which the Catholics had once acted, were such as could not fail to be remembered by the posterity of those who saw and suffered the oppressions which had been committed in the name of the Catholic religion. He could not refuse to acknowledge that the prejudice existing in many minds against the Catholic faith, was connected with many good principles; and was one which could only yield to time and conciliatory measures. It was for the Catholics to show that they cherished no intolerant feelings now; to wipe out the stain with which their former conduct had been blackened. He was sorry, however, to find that the conduct lately pursued by associations in Ireland, alluded to in His Majesty's Speech, was not only ill adapted to this purpose, but was quite irreconcilable with the spirit of the Constitution, and calculated to endanger the peace of society. The transactions of those societies had been of a nature that trod upon the utmost verge of the law: and if the contest now going on in that country were allowed to proceed, it was possible that the parties might come to open war. He would not say that this was likely to take place: but if it did, the Catholics would be the sufferers. There was only one way by which their object could be obtained: by humbly appealing to the justice of Parliament. Every thing like revenge, every thing like hostility in their conduct, could only serve to bring the question to a calamitous issue for them. It would then become a question: as to who was the strongest; and of the result of such a question there could be no doubt. The Protestant interest of Ireland, though less, numerically, than the Catholic, was infinitely superior in wealth, power, and intelligence. It might, however, be said, that they would perhaps be aided by foreign arms, as they had formerly been, and with such aid it was possible the Catholics might prevail against an undoubted superiority of domestic force in Ireland; but it was not likely that they could also prevail against the power of this country; and if they did, what would the consequences be? What was it they desired? A participation in the political rights enjoyed by members of the national church: but they would only gain a participation in expiring freedom. All sensible Catholics must be convinced that their present state was better for them, than any they would be placed in after incurring such a risk. They had every prospect of obtaining their object by peaceable and constitutional means. They had almost an equality of votes in favour of that object in both houses of Parliament. The great ques-

tion of Catholic emancipation would doubtless come again into consideration, during the present Session. Their lordships would then have to consider whether the situation of the Irish Catholics, was one which could or ought to last—whether it was possible to retain a great body of men in the state in which they were placed, discontented in peaceful, and perhaps disaffected in troubled times—whether, supposing the evils which some apprehended from concession to be admitted, it would not be better to make that concession, than to live in this constant state of discontent and possible revolution.

Lord Gort, who seconded the address, confined himself to that part of the Royal speech which referred to Ireland: after eulogizing the administration of the Marquis Wellesley, he animadverted upon the conduct and the pretensions of the Catholic Association. That body had assumed the rights, and exercised the powers of a Parliament. It imposed taxes, issued proclamations, and made laws for the Catholic community. Its professed object was Catholic emancipation, but its real tendency was to overthrow the Constitution. He would not now discuss the question of Catholic emancipation; but were he the most strenuous advocate of the most liberal concessions, he should still be the opponent of the Association. In this Catholic Parliament, the most declamatory speeches were uttered, and every topic of inflammation enforced. The Catholics were taught to believe that they were the objects of Government hostility—that they were universally oppressed, and that the Protestants were their oppressors. So decided was this Association in its opposition to the constituted authorities of the land, that some change must be made. The two Parliaments—the Catholic and themselves—could not co-exist: either the Catholic or the legitimate Parliament must give way. Entertaining this view of the question, he entirely concurred in the suggestion from the Throne, that the Association must be put down. By means of the "Catholic rent" system, it had levied taxes on every parish in Ireland; and by means of its proclamations, and the co-operation of the priests, it had extended its authority, and exercised a striking influence from one end of the island to the other. The priests, in executing the orders of the Catholic Parliament, showed that they possessed an influence which they ought to have exerted in maintaining the public peace at other times. He should be sorry to be thought so void of constitutional principle, as to oppose any obstacles to the Catholics, in uniting to express their grievances, and to seek for redress; but if they were to come before their lordships, they must come as petitioners—they must come with prayers, and not with menaces—they must submit their demands to the discussion of Parliament, and wait the result with patience. In short, they must present the olive-branch, and not show the sword (hear, hear).

The address having been read from the woolsack,

Lord King admitted that the situation of England was prosperous and fortunate; but their lordships should not forget that such was not the situation of six millions of Catholics on the other side of the Irish Channel, suffering under a misgovernment which was a disgrace to our age and country. The world, in general, was now too wise to allow Governments to in-

flict penalties, or to withhold privileges, on account of differences of religious faith. This was almost the only government which carried on a contest with a large portion of its population on account of religion. Ireland and Turkey might be cited as the only countries in Europe where whole races were oppressed and punished on account of their faith. The Grand Sultan had been endeavouring to make converts of the Greeks, as the government of England had to make converts of the Irish Catholics; but they had not succeeded. When the unhappy Greeks complained of the sufferings which they endured, and applied to be treated a little better than Mussulman dogs, the Sultan sent for his Grand Vizier, to ask him what was to be done. This Grand Vizier had at first been a friend, and then an enemy, of the Grand Sultana. He had thus lost much of the favour of his master, and suffered himself to be bearded in his own Divan, by his officers and serving men (a laugh). He was hostile to some of the claims of the Greeks. The next person in the Divan, in point of influence, was the Reis Effendi, who was friendly to the just demands of this persecuted people. This officer, it was well known, was Minister for Foreign Affairs. His foreign policy deserved and obtained general approbation. In this part of his duties he conducted himself with remarkable liberality and talent. He had done great good, and gained considerable popularity to the government of the Sultan, and would have done more had his measures not been opposed by his less enlightened colleagues. He, in fact, was the only man of real genius in the whole Divan (a laugh), and was esteemed an ornament among Turkish statesmen, being gifted with poetical talents. The Kiaya Bey or Minister of the Interior and the Capitan Pacha were likewise against the Greeks in their claims for civil privileges; but the leader of the opposition to their cause was the head Mufli or chief of the Mussulman law (a laugh). This officer was an enemy to all change. He had regularly opposed all improvements in trade—all improvements in law—all improvements in foreign policy (a laugh). He had been, and always proclaimed himself, the greatest champion of existing abuses. He was the most consummate intriguer of the whole Divan (a laugh). He had at one time taken up the cause of the Sultana, but he turned against her when he found that by continuing to support her he would forfeit his place in the Divan. He then took up the cause of her enemies. At one time there was a proposal to admit some Greeks into the regular troops, or body of Janissaries. He then raised such a fanatical cry against this measure—very similar to the cry of "No Popery" in this country—that he turned out of the Divan the members who had adopted it. He succeeded himself to office, and he no sooner got in than he agreed to the very thing against which he had clamoured (a laugh). He kept the Sultan's conscience and his own; but it was never remarked of him that his conscience opposed his interests (a laugh). Having minutely studied the Turkish constitution, he had found out that it was essentially Mahometan (a laugh), and therefore hostile to Greek privileges. He had resolved, therefore, to continue staunch to the cause of intolerance, and was surrounded with the Mollahs, the Imams, and the Dervishes, who encouraged him in his hostile purposes. To complete the picture of this divided Divan, the members who composed it had resolved that

in certain questions they should agree, and in certain questions they should agree to differ, without breaking up their union. Having seen the evils resulting from such a Divan—having seen the Mussulman empire torn by this intolerance of some members of it to their Greek brethren, and their quarrels among themselves—he would pray that this country might not be delivered up to such a divided cabinet (a laugh).

The Marquis of Lansdown concurred in all that was said about the internal prosperity of the country, and the wisdom of recognizing the independent states of South America. It showed that we had no intercommunity of feeling with these governments which claimed this right of interfering; and was done without exciting resentment, or placing our system in direct opposition to theirs (hear, hear). With reference to that part of His Majesty's speech which touched upon the state of Ireland, he regarded it as peculiarly important. He did not mean to enter into the proceedings of the Catholic Association, either in the way of justification or attack; but he cautioned their lordships to beware how they suffered themselves to be beguiled into an expectation, that by merely removing the outward symptoms of the malady submitted to their treatment, they gained any thing against the cause which produced those symptoms. In a state of irritation like that which prevailed at present—irritation arising out of the discontent of five or six millions of people, placed with respect to their law, their church, and their exclusion from political power, in a state entirely different from that of any other equal body in any other country in the world—he conjured noble lords not to believe that, by checking the Catholic Association, however its measures might call for check, they would cure the disease which affected the body of the Irish population; the existing symptoms might be removed; but new troubles must and would arise, arresting the prosperity of the sister kingdom, and in time of danger unerving the arm of our own. He set out with one conviction—that in any country situated as Ireland was, there must always exist a large fund of discontent ready to be drawn upon for evil purposes. Such being the case, was it not to be desired that public opinion should make its way by open channels rather than by secret ones?—that correspondence should be carried on, and communication, that sort of communication which would always prevail between different bodies of men labouring under similar disabilities, should circulate open and avowedly, than that it should be conducted in darkness and concealment, working its ends unheard and unperceived, and producing mischief where it perhaps might have been harmless, had the more eye of authority still retained power to pursue it? It was not “the outward and visible signs,” which constituted the disease with which Ireland was affected. The freemasonry which Government had to dread, was that which bowed men to each other by a common sense of interest, which taught them to strengthen themselves by alliance, and to aid each other in evading the law. What the nature of the evils anticipated from the proceedings of the Catholic Association was, he did not know. The noble Viscount who had seconded the address and adverted to the danger, but had not expressed the nature of it. When he should have all information upon this point, he should be

ready to entertain a proposition for representing it.

The Earl of Liverpool, after congratulating the government and the country on the restoration of a metallic currency—the removal of restrictions on commerce, and the precise time and circumstances in which the independence of South America had been recognized—when mediation had been offered by this country—when no considerable party was in arms in the Colonies in favour of Spain—when there was no prospect of reconciliation or re-conquest—proceeded to make a few remarks on the state of Ireland, which he said he could not treat as wholly unconnected with the general Catholic question, because there was no subject which interested or affected Ireland at all which some persons would not be disposed to mix up with that question. He should, however, treat it as a matter by no means growing out of, or immediately connected with it. For the measure which was to be proposed, there was nothing about it which should prevent its being discussed upon its own merits. There was nothing about it which touched the question of Catholic claims—nothing which the advocate of those claims might not vote for as freely as he who stood most opposed to them. With respect to the proceedings of the Catholic Association, there could be no doubt that they were undertaken, and carried on in that spirit which said, determinately—“Whatever law you make, our business is to evade and to nullify it.” There might be those who would say generally that they disliked the effect of the restrictive laws operating upon Ireland, and that they would do nothing to strengthen or extend them; but whenever those persons looked at the conduct of the Association—saw it actually levying a duty upon the Catholic population of Ireland—would they say that the existence of such a body was consistent with the constitution of this country, or compatible with its peace? He protested that if he himself stood before the House as the advocate of Catholic claims, the first act which he would propose should be the putting down that convention; because, if those claims were granted at all, they ought to be granted upon their own merits, and not to the demand of such a body as the Association, acting in the way in which that body was disposed to act. He did not deny the right of the Catholics to assemble and petition Parliament; but that right was not now the question; the question was, whether on their part conduct should be tolerated inconsistent with the spirit of the laws. The Speech from the Throne said, that in the general increasing prosperity of the country, Ireland was taking a large share. This was apparent in the cessation of those disturbances which some had attributed to political and religious animosities, but which he had always mainly attributed to distress. If, however, religious dissensions, and the political animosities arising out of them, tended to produce disturbance, what could be more mischievous than the measures of the Catholic Association? It seemed to him that both the safety and the prosperity of the country demanded that immediate measures should be taken against it. He should therefore sit down by giving notice, that on this day so might, he should move for a renewal of the committee for inquiring into the state of Ireland.

The Earl of Donoughmore regretted to hear any tone taken which seemed to threaten further

measures of coercion against Ireland. He defended the Roman Catholics generally, and the Association in particular, from the charge of illegal proceedings. The Catholics paid taxes, and fought the battles of the country like other people, and ought not to be put down, as seemed to be intended. He was surprised that any minister who approved of the Speech which had been delivered from the Throne, could think it necessary to propose a committee to inquire into the state of Ireland. He wanted no inquiry; but would rest satisfied with the King's royal word, which declared that peace and tranquillity were restored to that part of the kingdom. Such being the case, he thought the coercive measures alluded to by His Majesty's ministers, ought not to be resorted to.

Lord Clifden argued, that the proceedings of the Catholic Association were perfectly legal, and that no quibbling could prove them to be otherwise. The Catholic rent was collected for, and applied to, various legal purposes; such as the education of the poor by Catholic priests, the establishment of newspapers, to combat the abuse of papers opposed to them, and the building of Chapels. The Speech from the Throne spoke of associations; he concluded, therefore, that it was intended to suppress the Orange Associations as well as the Catholic. It was extraordinary that Government should exhibit more intolerance towards the people of Ireland, than those of the kingdom of Hanover. His Majesty had lately issued a proclamation, declaring that in the kingdom of Hanover the professors of all Christian denominations should be on an equal footing with respect to civil privileges.

The Address was then agreed to unanimously.

#### COMMONS, THURSDAY, FEBRUARY 3.—

The Speaker having read the Speech,

Lord F. Leveson Gower rose to move the Address. After expatiating upon the commercial and financial prosperity announced in the Speech, he said that as a friend to the question of Catholic emancipation, which some persons regarded as the panacea for all Irish evils, he felt bound to say a word upon the proceedings of the Catholic Association. He could not say that he felt contempt for that body; but looking at the nature of its proceedings, and feeling anxious for the success of the general measure to which they referred, he had the most ardent desire for its annihilation. No man who looked at the conduct of the principal members of that body would be disposed to envy them the station they had acquired in public opinion. Perhaps one might grudge those gentlemen the graceful diction and fertility of imagination by which they were distinguished; but the evils which they were likely to produce to the country would be ill compensated by speeches of flowing eloquence and rounded periods. The acerbity of public feeling which must be generated by such orations from either party, were obvious; and that would be increased by either party continuing to act as an organized body. As a friend to Ireland, he hoped that the violence of the Catholic Association on the one side, and the ravings of Orange inanity on the other, would no longer be allowed to disturb the tranquillity of that country. Their effects were already felt too much. Some persons were disposed to seize every phantom which presented itself to their minds, and exaggerate it to the highest state of dis-

order; and though they admitted that some rents were paid, and that some gentlemen could lie down at night with the hope of rising in the morning, they still would have it believed that Ireland was in the highest state of insubordination. He, however, was far from thinking that any such danger existed. He could state that no information received by His Majesty's ministers on the subject would lead to that conclusion. He then proceeded to account for the increase of the army, specifying the Burmese war, the conflict raging in the vicinity of the Mediterranean, and the necessity of keeping up a force in Canada, as the cause of this increase, and concluded by eulogizing the discretion with which the independence of South America had been recognized.

Mr. Alderman Thompson seconded the address. After complimenting his noble friend on the impression produced by his speech, he proceeded to make a few remarks on the foreign relations of the country. It must be highly gratifying to the country to learn, that through the mediation of his Majesty, the differences which existed between the Emperor of Russia and the Ottoman Porte had been brought to an amicable issue; that there was no prospect of the friendly intercourse which subsisted between this country and foreign Powers being disturbed; but, on the contrary, there was a well-founded expectation of a continuance of that good understanding which had now existed for many years, and which had chiefly contributed to raise this country to its present state of prosperity. Whilst on this subject, he would advert to an event which had lately occurred in France, the circumstances connected with which had offered strong evidence of the happy change which had taken place in the feelings and opinions of the people of that country, and offered a substantial pledge of permanent tranquillity. He alluded to the demise of the late King of France—an event which was contemplated with no inconsiderable anxiety by the people of every state in Europe. The termination of the life of that monarch was regarded as the last hope of the advocates for revolution; but, thanks to a benign Providence, their expectations had been disappointed: we had witnessed the sceptre of France pass into the hands of his legitimate successor without the slightest disorder, thus satisfactorily exhibiting to the world that the present dynasty of France rested on the most solid foundation. He was led to these observations from a wish to show, that the peace we now enjoyed was likely to continue, and that the country was rapidly advancing to a state which might be viewed as affording an indemnity for the vast sacrifices she had made in the accomplishment of the general peace and tranquillity of Europe. With respect to the fallen state of Spain, the declarations of the Government of France might, he thought, be safely confided in. He believed Charles X. to be sincere when he declared that his object in maintaining a military occupation of a part of Spain was not for the purpose of territorial aggrandizement, but with a view of protection to his own dominions. In proportion as that danger subsided, would he withdraw his army from Spain. His accession to the crown had been distinguished by a liberal policy, exemplified in the restoration of the liberty of the press and other institutions, which were in unison with a progressive state of tranquillity and civilization. He then repeated the statements

concerning the South American States; and went on to observe that it was to be lamented, that at a moment when British capital was beginning to diffuse itself through Ireland—when the benefits of an unrestricted commercial intercourse between the two countries were daily exemplified—whilst measures were also in progress which could not fail to ameliorate the condition of the lower orders of Irish population—that those beneficial effects were impeded by the obtrusive interference of misguided individuals, who were exasperating animosities, diverting the attention of certain classes of His Majesty's faithful subjects from honest industry, and levying a species of tax upon a portion of the people of that country, with no other object than to enable those mistaken individuals to attempt to overawe the Parliament of the United Kingdom. He next adverted to that part of His Majesty's Speech which related to the improving state of our agricultural interests, of our trade, commerce, manufactures, and navigation. It could not fail to be gratifying to every Englishman, to behold our country, after a war of unprecedented length, carried on at an expense to the people to which history afforded no parallel, not merely recovered from the state of exhaustion attendant upon such a struggle, but raised to a degree of prosperity and glory unknown at any period. In proof whereof, he would advert to the increase of our revenue: the branch of Excise had exceeded the amount of the preceding year, by upwards of 1,100,000*l.*; and there was an increase in the Customs nearly equal to that in the Excise. Whatever part of England you visited, there were presented to your view a happy, contented, and industrious population; whether employed in the manufactories of our great staples, or in the cultivation of the soil. Within the short period of five years, he had heard gentlemen declare that England was a declining country,—that in commerce, manufactures, and navigation, she was incapable to enter into successful competition with any foreign rivals,—that the means by which she must sustain her public credit, were rapidly diminishing. And might he not now ask, triumphantly, how had these gloomy predictions been verified? He then alluded to the happy effects of the improved state of our commercial code. In the first place, the official value of the exports of British manufactured goods during 1824, showed an increase of no less than four millions and a half sterling over those of 1823, bringing the total value in 1824, to 50,758,800*l.*, by far the largest export ever made by this country. The transit trade had also, under the beneficial influence of the improved warehousing system, experienced a marked increase; the act only took effect in July 1823, and in 1824, as compared with a like period of twelve months preceding, there was an increase in value of more than 1,200,000*l.* After mentioning the improvements which had occurred in several branches of production, he observed that the prosperous state and improving condition of our agriculture form a topic of pleasing reflection. He was anxious, however, to state his opinion, that such prosperity was not in any manner attributable to the existing corn laws, which ought to undergo alteration. He was an advocate for their repeal, and the substitution of a protecting duty equal to a fair equivalent for the poor rates, tithes, &c., paid by our farmers as compared with other countries.

Mr. Brougham regretted to state, that he was under the necessity, not only of expressing his dissent from, but also of entering his solemn protest against, some and those not the least important, parts of the speech which had just been read to them. He felt, however, great satisfaction in being able, before he stated them, to concur in the satisfaction which had been expressed on the removal of restrictions from commerce, and on the recognition of South American independence. In giving that assent, he could not claim for himself any extraordinary stretch of candour. He was rather withheld, as were many of his hearers, from giving their due praise to the measures alluded to, since they were measures which gentlemen on his side of the house had many years ago urged in vain, upon those who at that time were intrusted with the administration of the country. The principles, he hoped, were at an end which had so long hampered the industry of the people of England. Those doctrines of a narrow, shop-keeping, bucketering policy, which for two generations back had been the topic of unqualified scorn and reprobation to all enlightened writers, but which had been regularly defended by each successive minister, during that period, as the foundations of national greatness, could never more be advanced to obstruct the prosperity of the country. He had heard them treated as idle chimeras by one set of ministers, and as jacobinical innovations by another, just as it was the fashion of the day to regard them as objects of contempt or of abhorrence; and yet he, who had seen them first contemned and then abhorred, had now the happiness to say, that they had reached the consummation of their glory, that they were topics of congratulation in a King's Speech, and in both Houses of Parliament. Eight years ago he had himself submitted the very modifications in the navigation laws which had lately been adopted. He claimed no merit—the invention was not his own, but that of greater and much wiser men. He had ventured, however, to preach them more than once—ineffectually, indeed, at the time, but, as now it appeared, with undeniable success at last. Then, however, he was not only blamed for so presumptuous an attempt, but admonished never again to preach such damnable heresies to the house. At the same time he had also proposed the changes which had recently been adopted in the silk trade. They were assailed, on his first propounding them, with great and extraordinary severity. He was told that though they might appear very plausible in theory, every person in the trade considered them inapplicable to practice; he was even met by the taunt, that what he advanced might be very true, but that it looked very much like an ingenious sophism. "I trust," said one gentleman, whom he now saw before him, "that I shall never see any ministry attempting to legislate upon such a subject." "God protect me," said another, "if any man attempt to withdraw this corner-stone of our commercial policy. Let no man meddle with it by day or by night;" and he might have added, in the interval between midnight and morning, which of all times for meddling was certainly the most objectionable (a laugh). "Thank God," said a third, in a fit of pious enthusiasm, "we shall never live to see the day, when the principles avowed



by the gentlemen opposite shall be sanctioned by His Majesty's Ministers." Ministers, however, had carried into effect all the detestable nostrums of that side of the house; they had taken an entire leaf out of the book of their opponents; they had even enacted measures to legalize the heresies of Adam Smith and the French economists, and to stamp with that odious name the opinions of their adversaries: nay more, the country was now called to thank God for having ministers who had courage to support such measures, though it was formerly called upon to thank God for having ministers who had courage to oppose them. He thanked God that measures had been taken by them to recognize the principles for which he and those who thought with him had long contended with so little immediate success. What they had done, however, was chiefly to be prized as a pledge that a better policy than the past would be pursued in future. For example, they had adopted the recommendations which he had proposed in 1817, regarding the navigation and the silk laws. It was a well-known observation of Dr. Swift, that in political arithmetic two and two did not always make four. He had observed, long ago, that with respect to the last laid wine duties, two and two did not make four. In the case of coffee, by lowering the duty, they had increased the consumption; so that where they meant to add two-and-two, as in the case of wine, they had decreased, and not doubled the amount of duty; whereas, when they reduced the duties upon coffee one-half, they had doubled, or nearly doubled, the consumption, and maintained the full amount of the revenue. Let the wine duty, then, at once be reduced; and, above all, let there be not only a reduction, but an equalization of different wine duties for all foreign countries—he meant, in fact, a general revision of the Methuen treaty. One good effect which would arise from such a revision, would be the establishment of a better understanding with the French Government, the lowering of the duties upon other French articles, and the increase of the foreign consumption of British manufactures. He next alluded to the approach lately made by Government to that just and liberal policy, so often recommended from that side of the house, in the recognition of some of the great Governments of South America. How much of this policy, great as it undoubtedly was, belonged to the country which had so strongly and repeatedly called for it—how much to the executive Government—how far, or how long the Ministers had been driving or driven into it—how little was the speed of their march—how small was their reluctance, or what was the measure or degree of their readiness to do this justice to the country and the new states, it were now perhaps unnecessary, if not invidious to inquire. How much of it was due to the great speech delivered by his learned friend (Sir J. M'Intosh) upon the Foreign-enlistment bill, as well as to his last equally great address, during the last session, upon the state of South America, it was not easy to say: but sure he was that there was no man either within or without that house, who could fail to ascribe a portion, a large portion, of this great and liberal, and sound triumph of right policy, over wrong policy, to his learned and excellent friend (hear, hear). The good was done, and by whatever process it had been effected, the recognition had luckily taken place at last.

When touching upon this subject it could not fail to recur to him, that many a long year before Mexico, Colombia, Buenos Ayres, or Peru, had ever dreamed of independence, another people had embarked in a successful contest for freedom—he meant the people of St. Domingo, who had long and long since succeeded in establishing their entire independence, upon a more peaceable, and now a more assured footing, than even the best established of the new South-American States. At the onset of the St. Domingo revolution, England was hostile to the natives; she became so from the situation of her people as slave-masters. But the question of slavery, so far as St. Domingo was concerned, had been long since set at rest; the natives had entirely emancipated themselves, and the island had become a thriving empire—one which had a right to be included in the British system. It was clearly the interest of our own colonies that it should be so; we owed it as well to our colonial whites as to their unhappy slaves; and we ought to lose no time in adopting that just and salutary policy. He would now ask, was this display of liberal policy to stop here? Was this essential administration of justice to be confined to our foreign colonies? Were we never to do justice nearer home—were we never to listen to the voice of Ireland? Was it there alone that policy was to be overlooked; and that, too, where a great population was oppressed by a continuance of matchless impolicy, and worse injustice, because Ministers withdrew from the adjustment of a question, which ere long must be definitively settled. There was an evident danger in trifling with a vital subject, which could not be set aside. There was in the Government, no doubt, too great a difference of opinion upon the Irish question, as there had been upon others; but surely not more than there had been upon the mercantile topics. There had been something like the same difference on the silk bill; they could not fail to recollect, that it was brought into this house and carried by one minister, and thrown out in the Lords by another. An equal difficulty had been found in reconciling the conflicting opinions of the Cabinet at an early period of the South American question. It was by some called jacobinical to urge the claims of the new states of South America, until at length a minister, backed by the voice of the people, and supported by their representatives, had the manliness to press forward those liberal measures of foreign policy which some of his colleagues denounced. It might be said, that if such a minister should persevere in this novel course, he might be compelled to resign. Was this to be the reason for delay? Was this conduct to be tolerated in a British minister? And if it were, were they, then, to consent to say "The danger is, we admit, great, but touch it not?" Let them not in these times, be told that there were particular scruples, in a high quarter, which could not bear to be touched. This language had, he knew, been used on a former occasion; but it was unjustifiable—it was unconstitutional—it was intolerable—it would have been hardly used to a House of Commons by a minister of Charles II.; and sure he was that, if used in the better times which preceded that reign, it would have brought a minister to the block. It was Mr. Fox's constitutional maxim that the name of the King should never be mentioned in debate, to influence or overawe. The great constitutional practice was,

that when an act of grace was to be performed, the King was to have the gracious merit of what was done; and that it was only when measures of an odious and unpopular character were necessary, that ministers were to step forward and assume the whole opprobrium which attached to them. This was the constitutional maxim which had always prevailed, except in the worst times, and which never, until of late, had been departed from. The practice was otherwise, now. If there were any thing odious to be done—any political opponent to be run down—"Oh then," ministers exclaimed, "it is not our fault, we wish to do what is right; we are above these petty jealousies; we do not wish, nor mean, professionally, to injure a political opponent; but don't you see we are delicately placed?" Then followed the allusion to the Sovereign, as the imperative director of the act, so that these official personages cast upon the Crown the odium of any unpopular act, whilst they carefully preserved to themselves the popularity of more liberal measures. So it was once regarding Ireland; the name of his late Majesty had been used for the purpose of rendering it impossible at a former period to proceed with the Catholic question. But this plea, bad as it was, was now removed, as must be known by any person who had marked his present Majesty's most gracious conduct in his cordial and gratifying visit to Ireland, which had demonstrated his just and enlightened feelings towards the Irish people. He would add, too, that in the territory in which George IV. reigned as King of Hanover, and where he acted individually, and not as in Great Britain, under the guidance of what were called responsible advisers—they had not long since an opportunity of knowing the King's real sentiments, in the decree which he graciously promulgated at the opening of the States, and of which he had procured a copy. He earnestly hoped that this decree from the King of Hanover personally, would be taken as a hint, for ministers to adopt a more liberal policy towards Ireland. His Hanoverian Majesty was most graciously pleased to say, "that the general professors of the Christian faith are to enjoy a perfect equality of civil and political rights in the kingdom of Hanover, and in conformity to the 14th article of the constitution, the pre-eminence of a predominant church is abandoned." This declaration became a Sovereign, who felt that a truly tolerant man never used the word. Such a man must feel, that toleration was an indispensable duty, and not a boon. It was the inalienable right of man to worship his Maker according to the dictates of his own conscience, and no man had a right to interpose and prevent the exercise of it (hear, hear). The King's decree went on further to promulgate, "that all Christian communities had a right to the unobstructed and peaceable exercise of their religious worship." Ought not that house boldly to come forward, and, consistently with the royal act, do for Ireland what had been done for Hanover (hear, hear)? He was now putting aside the business of the Catholic Association, although the acts attributed to that body were the genuine fruit of the policy pursued towards Ireland. He had predicted such a consequence. If there had been extravagant and harsh language used by any of the Catholic body—if there had been extravagant propositions discussed—if an alarm had been the consequence,

who was to blame? Not so much the Catholics, who had sent over a bill with such propositions—not so much the Association, who had framed it; but those whose impolicy had originated the association, had made it what it was, by continued oppression and insult. The Catholics first came to Parliament with a respectful request, and were met by refusal, and contumely: the natural result was, an insolent and unreasonable demand. Why not then revoke this policy? Why not redress grievances in Ireland and apply conciliation instead of coercion? They could not answer for the result until they had made the trial. But what was the ground of alarm when the experiment was suggested? He knew that high, very high, in that cabinet was to be found the greatest learning, with the most experienced talents combined—were they afraid of losing the benefit of these great acquirements by pressing an obnoxious measure upon a particular individual? What, did they think the great seal would be in danger if they pressed this question? Did they think the venerable and learned person who held it would quit his possession on that account? Great God! the very notion of such abandonment of office was the most chimerical of all the chimeras that ever disordered the brain of a poet (loud laughter). Surprised indeed should he be, to find any quittance of office in that quarter, before all sub-lunary things were at an end. That fear of public loss never crossed his apprehensive mind even in a dream. They greatly undervalued the steadiness of mind and purpose of their venerable colleague; there was nothing to equal the patient assiduity with which he bore the toils of his high station, the fortitude with which he endured to be thwarted: upon all questions of foreign and domestic trade he had at length consented to yield—ay, and so would he upon this Catholic question if it were equally pressed upon his reluctant attention. His composure under such circumstances was only equalled by the fortitude with which he bore the prolonged solicitations of the suitors in his own court. To suppose that he would quit office on this account, was really to harbour the vainest fear that ever crossed the most fantastical imagination; his colleagues would see this, were they only to make the attempt upon the prepossessions of his great mind; they would soon find the predominating prevalence of that patriotic feeling, that there was no principle so strong as the love of saving one's country, and that in no offices was it so forcibly felt as in those of the highest rank, in those possessing the most extensive patronage and connexions; and that so much the more powerful and profitable were the office, so much higher would be the ardour, and zeal, and self-devotion which would not allow the venerable, the wise and good man, at all hazard of personal opinions, to tear himself from the service of his country. To damp such zeal for the public service would be, he repeated, to possess a power superior to that of Prince Hohenlohe. To remove this great personage would be a real miracle; the seals were his estate—his freehold; he had secured the term, and his last breath would be poured forth in the public service. The only question in law upon the matter was—who was to appoint his successor? He was not, for his unabated desire to do good to mankind, to be restricted to a mere life interest; the office must in him be devisable, and for the uses of his will. Indeed, there were indications which in a measure pointed to the

successor, although that successor would find himself disappointed, if he hoped to get office during the natural life of the present holder (renewed laughter). To be sure, one member of the cabinet might say, 'I will resign if this measure is not carried,' and another might reply 'And so will I, if it is.' Let the *rt. hon. gent.* opposite (Mr. Canning) only make this experiment with his noble colleague upon the Catholic question, as he had done upon the commercial bills, and the nation would not, he might depend upon it, be deprived for one hour of the inestimable benefit of his colleague's public services (hear, hear). Unhappily, the *rt. hon. gent.* made no such effort, and therefore the Catholics were put off; from year to year—from one crisis to another—in time of war, or in time of peace, the Catholics were to be turned aside, and for them alone the hour of redress was never to approach (hear, hear). Penal enactments were the answer to their petitions, and now again they were called upon to put down, not the association, but "associations." This was one of the sliest insertions that ever crept into a form of speech. The venerable and learned personage in the cabinet had added this letter; he knew his hand-writing (laughter), and the object was plain and palpable; "Make it plural, and then we shall have the votes of those who are anxious to put down the Orange Associations, and who will admire by anticipation the mode in which we poise the equal balance in our hands, and determine to put down faction in Ireland." He, however, conjured *hon. members* to exercise their common sense. They would soon find that the justice was only nominal—that it partook of those subtle equities, from the precincts of which it sprung—that the strong and irresistible hand of the law would be called forth to put down the Catholics, whilst the Orange Association would be only visited with a gentle tap (hear). To the introduction of this principle, therefore, he must at once oppose all the resistance in his power; he could not assent to it under any form, or with any qualification. If the Catholic Association had transgressed the principles of the constitution, and embarked in measures irreconcilable with the supremacy of the law, the more it was to be regretted. He had never in his life approved of all the measures of any association, still less had he ever approved of all the measures of a society united by a mixed bond of religious and political principles, where men's feelings now and then became roused, and sometimes carried them in their warmth over the strict line of propriety. But he thought their moderation had been exemplary, and their language—which had been sneered at by the noble lord (Gower), but which it would have been more prudent in him to have endeavoured to imitate than to have sneered at—was moderate. "Oh, said the noble lord, 'I am not disposed to treat them with contempt!'" That he—that he—most noble and most honourable as he was—should have it go forth to six millions of suffering fellow-subjects, and that the very first time, perhaps, they had ever heard of his name—that he did not mean to treat them with contempt, was certainly singular. To speak of such people with contempt, was quite out of the question—not even that most contemptuous of all contempters, *Signor Pococurante*, would have said so (a laugh). The great bulk of the Catholic community had given to that

body their hearty and unqualified support. They might not, perhaps, all think alike upon the whole of the measures of the Association; nevertheless, the great bulk of the body sanctioned the entire of their proceedings. There were some who disliked the particular speeches of individuals: among these was the Attorney-General for Ireland; and yet, when he sent up an obnoxious speech to the scrutiny of a grand jury, he found that they were not prepared to assist in prosecuting the party. He regretted that his learned friend had taken such a course, after the late Mr. Gratton, the Attorney-General for Ireland, had done more than any other man of his time, for the claims of the Catholics. If any man, then, had planted, and fostered, and fathered this very association, his learned friend was that man. There were many who did not approve of the Catholic rent, or the manner of its collection, but who were still cordial friends of the association, and who would adhere to it, as the representative of their sentiments, and would feel an attack made upon it, as a declaration of war against the Catholic people of Ireland. Besides, how they were to put down this association, without equally extinguishing hundreds of others, was beyond what his imagination could comprehend. What was to become of the Bible Society, which raised, not 8,000*l.* or 9,000*l.*, like the Catholic Association, but 80,000*l.* or 90,000*l.*,—which had struck its roots deeply into the soil, and spread its branches far and wide—which comprehended great sects and illustrious names amongst its directors and supporters—which had dignitaries of the church at its head, and a peer of Parliament for its president—which could boast amongst its members Lord Bexley, and Lord Liverpool—a peer with whom, in the new commercial policy, he had often the honour to act (a laugh). There was also the Bridge-street Association, of which the Duke of Wellington was a President. This, it was true, was only a society for prosecuting libellers; they did not attempt to stand up for a redress of old grievances; their office was rather to check complaints than to originate them—to exercise the power of *ex-officio* prosecutions, without the responsibility of the Attorney-General, for whom that power was intended. What was to become, he would ask, of this society? He would fain hope that this intention would be abandoned. He conjured the ministers to pause before they advanced a step farther in such a system of legislation. He protested against the principle of such a measure; he could not even allow the papers to be laid upon the table which were to form its basis, without proclaiming its injustice. From that very moment he would take his stand, and oppose it inch by inch, and step by step, as a measure pregnant with enormous mischief, bottomed upon injustice, and filled with all the ingredients of coercion and impolicy, which if persevered in would sooner or later lead to the severance of the two kingdoms (loud cheers). The peace of Ireland was secured by the Catholic Association (hear, hear); Ireland had never been more tranquil than now, through the reliance of the people upon that body. This was the fact; let the house describe it as it might please—cloak it over with any form of words—this was the doing of the Catholic Association (hear, hear). The people of Ireland once confided in Parliament; but the conduct of their friends in always supporting emancipation, except "under

particular circumstances," and of the Parliament in as constantly rejecting it, had alienated the Catholic people. They now confided in the Association. And why should that house complain? Was it not their own handy work? Swift, among his shrewd maxims, had one that—there was nothing so unreasonable as for people to make themselves ridiculous, and then be angry at others for laughing at them. So it was with Government; they first made rebels by their injustice and impolicy; put them down they must, in order to keep the Government going; but after that, came vituperation and reproaches, which kept up the former soreness. 'Twas true, there was no talk of rebellion, but if any thing could invite it to our shores, it would be the delay of justice to the Catholic people. He warned them against waiting under the plea of a more convenient season; it would be better to relent even in the twelfth hour. It was madness—it was the grossest imprudence to keep the former course. That minister was not worthy of the credit which would attach to the very meanest and least significant of those measures which had been introduced for the comparatively light purpose of benefitting commerce, who could hope, by the adoption of violent means in putting down the Catholic Association, to satisfy the demand which was made upon him for the adoption of a liberal policy. The associations might be put down in eight-and-forty hours. It was their own fault that they were there. Let it once be seen that the Government and the Parliament were sincere—let the conviction once take effect that justice would be secured by the enforcement of equal laws, and there would be an end to associations. That they might be wise enough to yield in time to the reasonable petition of six millions of their oppressed subjects, was rather his earnest prayer and wish than his belief. But his conscience prompted him to call upon them to adopt this as the fittest time for conciliation and redress, while, as to the policy hitherto pursued, and for aught he knew yet to be continued, he was determined to relieve his own mind from the guilty responsibility of acquiescence (loud cheers).

Mr. W. Lamb said there were many associations in this country, expressly engaged in raising money by legal means. It was highly desirable that such bodies should be enabled to meet to manage their own proper interests. But what would be said if they went to add to their private affairs the consideration of those of the whole country? He could even admit that the subscriptions to the Catholic Association might be legal; but if he found that the Roman Catholic priesthood were engaged in collecting them, and were to be consulted as to their employment, he should deem that a circumstance symptomatic of the deepest alarm. Nor was that alarm at all lessened by the recollection that that priesthood claim an actual delegation of the powers of omnipotence, professing that whatever they bound or loosened on earth, whether absolution and remission of sins, pardons plenary or in part, the same was bound or loosened in heaven. He maintained that the operations of a clergy, pretending to such power, should be watched with rigid scrutiny. He was, notwithstanding, a friend to Catholic Emancipation, and should support such a measure, if proposed.

Mr. Conning:—With respect to the Ca-

tholic Association, as relating to Catholic Emancipation, he must, as a supporter of that question, express his entire accordance with his hon. friend who spoke last—that so far from the Association being identified with the interests of the Catholics, its institution and conduct more resembled the scheme of an enemy who had devised it for thwarting the progress of the question of emancipation in this country. The worst enemy of the Catholic religion could not have hit upon means more certain—he could not have imagined a plan so successfully mischievous as the institution of the Catholic Association. To one question of the learned gent. he would advert as particularly deserving of an answer. He had asked, if no steps were taken by the Government, with a view to check this Association, might not the mischief die away? It was at one time his own opinion that it would. He appealed for proof of it to his conduct in the last session of Parliament. Had the learned gent. forgotten how ministers were then goaded to stifle the restless spirit which was then said to prevail? Had he forgotten the answer then given, that they thought it better to wait until the mischief should die away of itself; and at all events they declined calling upon the house for any extraordinary expedient until the effect of patience were fairly tried? The learned gent.'s mode of handling this subject was most singular. To prove that the existence of the Catholic Association was at least harmless, he ought to have shewn that they were a few zealous individuals, who did not profess to represent the people of Ireland—who had no design of assuming the character of a Government. But the learned gent. exaggerated even their own most gross and exaggerated account. He told the house that the Catholic Association was the Government of the country. "You are indebted," said he, "to the Catholic Association for the peace and tranquillity of Ireland." He entirely overlooked the administration of the last three years. He left out of view the eminent services of the Marquis Wellesley, in retrieving, by the equal justice of his government, the authority due to the laws. He forgot that the sunshine of Government was shared equally by Catholic and Protestant, and that the favours of the Crown were nothing. It was not to this that the tranquillity of Ireland was attributable; her repose, says the learned gent. is the work of the Catholic Association! Most earnestly was it to be wished that the current of that wise and benevolent administration had been suffered to pursue its course unimpeded, and to have flowed through the land unmixed with these waters of bitterness:

"Doris amara suam non intermiscet undam."

Whatever disappointment awaited the great measure of emancipation must be ascribed to that body. But it seemed that the Catholic Association was the cause of that peace which the Government had been unable to achieve. By what charm had they brought about this object? whence did they obtain their magical elements of concord? From the pit of Acheron! Their combination was cemented by an adjuration of horror—"Be peaceable, they said, by the hatred which you bear the Orangemen!" This was the charm by which they extracted peace out of hatred. Good God! was it for reasoning men to put such a bond of union

late writing, and when called upon to explain themselves, deliberately to affirm the deed? Could this be Catholicism? He trusted not; for if it were, he had been in a fatal error in advocating the Catholic cause (cheers.) Did the learned gent., did the Catholic Association know so little of the English people, as to suppose that intimidation could avail them? Every sentence of that nature must operate as an injunction on their advocates to hold their peace, till the impression of that violence could be effaced from the minds of the English people. Let no one consider him, therefore, as opposing the Catholic claims. He wished to separate the Catholic Association and the Catholic question,—the learned gent. wished to confound them. He did them an essential benefit, in ridding them of that incubus, in removing what was unsightly and unbecoming, and advanced their cause in the estimation of every man who hated to be bullied, or who possessed a sense of independence. He was sorry to detain the house with personal explanations, but the learned gent. had asked him—almost in so many words, “Why do not you, who have carried a particular question against the views of an opposing minister, insist on carrying the Catholic question?” He objected to both premise and conclusion. Suppose the premise true, did the learned gent. see no difference between the South American and the Catholic question? “What had a minister to fear,” asked the learned gent. “with this house, these benches, all England at his back?” He would answer with another question; “What would a minister do with only these benches, and with no England at his back” (cheers, and laughter)? He should reserve to himself the right of judging how, when, and at what period, and in what manner, to give up either his office or his life in support of that or any other cause; he would not consent to have the opportunity chosen for him, especially by one who might have some collateral interest in giving his advice (laughter). In the notion that a certain member of the Cabinet, who was opposed to him on the Catholic question, was also opposed to him on that of South America; the learned gent. was entirely mistaken. He assured him that the line which divided the Cabinet was not straight, but serpentine. The project of breaking it up, on account of one question, might not be difficult; that of forming a new one from the different benches of that house, would be found not quite so easy. No doubt a competent ministry might be selected from the benches opposite; but if the learned gent. could have the satisfaction of ousting him, he would not, in all probability, have the satisfaction of succeeding him (cheers, and laughter). All he desired of the house was, to consider rightly the terms which were objected to in the address. The King stated in the Speech, that associations existed in Ireland, for whose conduct it was recommended to consider of an adequate remedy. The house replied, by promising that it would do so. What less could the house do? Unless, taking the learned gent.’s description of the Catholic Association, as a body possessing the whole authority in Ireland, enjoying undivided allegiance, exercising all the powers of Government, issuing the only commands which were effectually obeyed, and loving revenge—unless they were prepared to say that a power thus formidable ought to exist—to sit beside the Government, or to tower above it—they could not refuse their

assurance to the Crown, that they would take an early opportunity of considering the means of putting down so enormous an evil. The learned gent. seemed to treat lightly all those measures which a liberal policy had adopted for the advantage of trade, and the recognition of the new states. The learned gent. was not an unfrequent speaker in that house, and when he favoured them, he was not remarkable for conciseness—mixing up with the matter of debate, dissertations *de omni scilicet*. As, in the course of his Parliamentary life, the learned gent. had proposed and supported every species and degree of innovation which could be practised in a settled government, it was not very easy for ministers to do any thing in the affair of South America, or any other, without seeming to borrow something from the learned gent. Their views might be shut up—by circumstances which they must consult, though he need not—as among ice in a northern winter. In time the thawing came; but break away in what direction they would, to the left or right, it was all alike. “Oho!” said the learned gent. “I was there before you—you could not have thought of that now, if I had not given you a hint.” In the reign of Queen Anne there was a sage and grave critic of the name of Dennis, who got it into his head that he wrote all the good plays that were acted at that time. At last a tragedy came forth with a most imposing storm of hail and thunder. At the first peal, “That’s my thunder,” said Dennis (loud laughter). So, with the learned gent., there was no noise or stir for the good of mankind in any part of the globe, but he instantly claimed it for his thunder. One thing he had, however, kindly thrown overboard, which was to be divided between Government and his learned friend (Sir J. M’Intosh). He wished to hear from that learned member to what degree he claimed South America for his thunder (laughter)? The learned gent. was very cautious in his praise. Much had been done to which he could not object; but then, for fear that they should feel too proud, he suggested that things might have been made better, especially as to time. Now if he piqued himself upon any thing in the South American negotiations, it was upon the subject of time. As to the propriety of admitting states which had successfully shaken off their dependence on the mother country to the rights of nations, there could be no dispute. There were two ways, however, of proceeding, either recklessly and with a hurried course, by which the object might be soon reached, and almost as soon lost—or by a course so strictly guarded, that no principle was violated and no offence given to other Powers. The three States with which Government had to deal, were Buenos Ayres, Colombia, and Mexico. As to Buenos Ayres, it was true many years had elapsed since there had been a Spanish soldier on the soil. But his learned friend knew well that Buenos Ayres comprised 13 or 14 small and separate states, which were not till lately collected into a federal union. Would it not have been absurd to have treated with a power incapable of answering for the conduct of the communities of which it was composed? So soon as it was known that a consolidation had taken place, the treaty with Buenos Ayres was signed. Next as to Colombia. As late as 1823, Puerto Cabello was held for the King of Spain. It was only since that time that Colombia could have been admitted amongst the

independent States. Some time after that, however—he spoke it not as imputing blame—Columbia chose to risk her whole force and a great part of her treasure in a distant war with Spain, in Peru. Had that enterprise proved disastrous, it would have ended in re-establishing the royal authority. The danger was now at an end. The case of Mexico was still more striking. Not nine months ago, an adventurer who had wielded the sceptre of Mexico left these shores to return thither and resume his abdicated throne. In neither of these cases, could the time of the negotiation have been anticipated even by a few weeks. Now with respect to the mode in which this great object was effected, he was bound to say, whatever fault had been found with it, that it was the best and wisest that could have been adopted. The learned gent. had said, that there was something mean and paltry in negotiating a treaty, as the prelude to recognition. Now what was the conduct of France with respect to the United States of America? The fact was, that the ambassadors of the United States were not admitted to the Court of France until the signature of a treaty. Such was the mode of recognition in that case; and the treaty was quoted to this country as a confession of that act. France not only acknowledged the independence of the United States before it was recognized by the mother country, but she entered into a treaty of alliance, offensive and defensive, with those States; and thus she became the enemy of England, with whom she had previously maintained relations of amity. Did those who opposed the course adopted by His Majesty's Ministers intend to argue, that this measure was imperfect because it was not accompanied by a war? The task which he had had to perform was, to arrive at this great object, without giving just cause of war to Spain or any other power (hear, hear). There might be something mean and huckstering in this mode of proceeding, but if the learned gent. thought that war was not to be had, with some little dexterity (a laugh), he was exceedingly mistaken. War lay here and there; it was on the right, and on the left of our path—our course lay in the middle: we took that course, and arrived at the object of our solicitude honourably and peaceably. Was this mode of proceeding unsatisfactory, because there did not exist in the archives of his office, a single document which Spain had not seen, and of which the Powers in alliance with this country had not been supplied with copies? Or because Spain was told, that if she would take the precedence, in recognizing the independence of the colonies, this country would be content to follow her steps, and to allow to her a superiority in the markets of those colonies? Now he would say to the learned gent., that the credit of the measure might be his, or it might be that of his learned friend (Sir J. M'Intosh); but he would claim for himself the merit of selecting the time, and of devising the mode in which the object was effected. He trusted, that by this plain conduct—this temperate—tardy policy, if they pleased so to call it—the country had avoided all the dangers which otherwise would have accompanied the recognition. He did not pretend to conceal, that by this step, we had hurt many feelings—run counter to many interests—shocked many prejudices—excited many regrets, much anger and indignation; but still he hoped that these feelings would evaporate in words, and that we

should have gained our object, and still remain at peace with all the world (cheers). There were one or two points in the speech on which it would be proper that he should say a few words. He alluded more particularly to the treaty with the United States of America, relative to the slave trade. At the beginning of the last session of Parliament, a proposal was received from the United States, to carry into effect a measure for putting an end to the slave-trade, by giving to each power the right of mutual search. The treaty was drawn up by the Ministers of the United States; and in the course of the negotiation, some alterations were made here. By the constitution of the United States, the right of ratification was placed, not in the Executive Power, but in the Executive Power and the senate. This country, therefore, had no right to complain, when a treaty, regularly negotiated and signed by his Majesty, was refused by the American authorities, unless alterations were made in it by the United States. But the singularity of the case was this—that the alteration proposed by the United States had no reference to the alteration introduced by the British Cabinet, but was an alteration in their original draught. By the original treaty, the Americans were to be permitted to search our ships in the West Indies, and we in return were to search their ships off the coast of America. They withdrew the clause which empowered us to search their ships. The mutual right of search was thus destroyed, and it was impossible for this Government, either as a question of policy, or as a matter of justice to the West India proprietors, to allow such an alteration; for it would have been a tacit admission that our slave-laws were evaded by the colonies, but that the American slave-laws were not so evaded. Under these circumstances, we proposed to cancel that treaty, and to send a minister for the purpose of forming a new one, which should be drawn up *verbatim* as the treaty originally stood. This was the situation in which the matter was now placed, and he did not think that a refusal to accede to so reasonable a proposition could stand the test of public discussion in America. He thought the Americans themselves must feel that they had no choice left but that of adopting the expedient which the British Government had pointed out. The whole discussion had been carried on in a spirit of the most perfect amity; and he believed the personal feelings of the Executive Government of the United States were in favour of the arrangement.

The house adjourned.

FRIDAY, FEB. 4.—On the question that the report on the Address be brought up.

Mr. Hobhouse said, that as His Majesty had congratulated Parliament on the prosperity of the country, and the amity which prevailed in our relations with foreign Powers, it was remarkable that although Ireland was particularly represented as partaking of the tranquillity, a change of the criminal code, not merely of Ireland, but also of England, was recommended; and notwithstanding the peaceable aspect of foreign affairs, an increase of our standing army was advised—as if Ireland were expected to break out into rebellion, and the Holy Allies were disposed to march their armies into France, and thence proceed to annoy our shores. It was impossible to allow such topics to be embodied in the address, without protesting against them

in the most solemn manner. The *rt. hon. gent.* had said, that none but the enemies of Ireland could assert that the Catholic Association represented the Catholics of that country. If he might rely upon the public papers, he was persuaded that that Association not only spoke the opinions and represented the feelings of the Catholics of Ireland, but of England also. How else could it be accounted for, that one of the most numerous and respectable meetings of Catholics held in England for a long period of years, had recently passed a unanimous vote of thanks to the gentleman who was at the head of the Association? If it did not represent the sentiments of the people of Ireland, why legislate against it?—why attempt to put it down by force?—why was His Majesty advised to recommend that subject to the House, if the Association had no power? He believed, and he thought, His Majesty's advisers were of the same opinion, that the Roman Catholics of Ireland and England, were never more united than now. It was the knowledge of this unanimity which produced alarm amongst ministers, and called forth the statement in the Speech. Having noticed this inconsistency in the speech of the *rt. hon. gent.* he should take this early opportunity of protesting against any design of putting down the Catholic Association. There was another topic in the Speech which he could not pass over, and which, to his astonishment, had not been touched upon last night—he meant the increase of our military force. The unprovoked aggression which the Burmese had made upon the territories of the merchants of Leadenhall-street—a body, which, from the language it used, could never have made an unprovoked aggression upon any state (a laugh), was assigned as one of the reasons for this unexpected augmentation of our military establishments. The whole excuse for this extraordinary measure was “the state of India, and circumstances connected with other parts of His Majesty's foreign possessions.” They were told that Ireland was not included in the “foreign possessions.” He was glad that it was not proposed to increase our military establishment in Ireland; but unless ministers intended to back their new penal law against the Catholics with a military force, it would be in vain for them to send mere Acts of Parliament. To what part, then, of our foreign possessions, was this allusion to apply? Did it refer to the struggle in the Mediterranean, between the Ottoman Porte and Greece? It would be gratifying to find that the *rt. hon. gent.* was strong enough in the Cabinet to take some decisive measures in favour of that unfortunate but glorious nation. At the commencement of last session he had stated his opinion to be hostile to our interference with Turkey, in behalf of the Greeks: but events had occurred since that time, which made it proper for the British Government to interfere, and to urge upon the Ottoman Porte the impossibility of its recovering possession of that part of the continent and islands of Greece which had achieved their freedom. If we wished Turkey to exist as a bulwark either against Austria or Russia, we should contrive some measures by which the Greeks should be declared independent. He could not, however, flatter himself with the idea that this view was taken by Government, or that they were inclined to interfere with the Turks on behalf of Greece. What, then, was he to consider as the cause of this

augmentation of the army? Was it any danger which hung over the Canadas? He had heard that the politics of one of the candidates for the Presidency of the United States were so hostile to England, that if he were elected, Canada might be considered in imminent danger. He mentioned this rumour owing to the ignorance he was in as to the real cause. That was not, however, any fault of his, but of those who withheld information from the people as to the cause of increasing their army in the ninth year of peace. We had now a standing army of 73,000 regulars, a force unexampled in time of peace. He had, therefore, a right to information upon two points; first—how much was the army to be augmented—by 5,000, by 10,000, by 15,000, or, as he had heard it stated, by 20,000 men? next—for what purpose was it augmented? Was it on account of the continued occupation of Spain, to which he was astonished at finding no allusion made, either in His Majesty's Speech, or in the address which had been voted in reply to it—an occupation that had arisen out of an aggression, which the *rt. hon. gent.* had himself declared to be one of the most unjustifiable that could be found in the history of nations (hear, hear)? The people had a right to know whether this crying injustice was to be consummated and perpetuated for ever. We had suffered one of our allies to annihilate the independence of Italy; but there had been no call for arming then. We had suffered another to subjugate Spain; but there had been no call for arming then, or at least only from that side of the house whose calls were not often attended to. But now, because the Burman empire, of which few men knew any thing, had attacked the East India Company, and because “there were other circumstances connected with our foreign possessions,” which were not specifically mentioned, and of which nobody knew any thing, our army was to be suddenly augmented. After some further observations on this head, the hon. member concluded by joining in the congratulations on the improvement of trade and agriculture, and those changes in our commercial policy, the credit of which he would not contest with any party—as it was indifferent to him from what quarter the thunders came, provided they “spare those that are subject, and beat down the proud.”

The *Chancellor of the Exchequer* observed, that it would be his duty at an early day to enter into the amplest details of the propositions he intended to submit to the house. At present he would merely observe, that though the augmentation of the army seemed to him absolutely necessary, he should be able to accompany it with a reduction of taxation, which he trusted would appear to be founded on sound principles, and to be generally acceptable to the country. The whole burden of the speech which the hon. member for Westminster had just made was—“What are the grounds on which ministers call upon the house to increase the army?” It was true, as the hon. gent. had argued, that there was nothing in the state of Ireland which required the presence of an additional soldier. The same was also the case in England. His Majesty's speech distinctly stated, that the augmentation of the army had reference, not to the internal, but to the external circumstances of the country. The hon. member had treated the Burmese war as a matter of indifference: and that was not surprising, considering that most people treated

with indifference a distant danger. Any man who considered the peculiar nature of our empire in India, and how it had arisen into its present extent and magnitude, would see that whatever tended to disturb the tranquillity of any part of it might produce effects much more important than any which would enter into the imagination of a casual observer, or of one who only knew of the Barman empire by hearsay. When this subject should be brought before the house, he should be able to prove that this increase of the army was dictated by sound policy, and was not liable to the objections which the hon. member had urged against it; for it was not an increase in time of profound peace, but in time of active war. With regard to the words, "our other foreign possessions," he could not conceive how the hon. member could look at our foreign possessions without seeing how widely different their present state was from their state twenty years ago. The establishment which defended them twenty years ago was utterly inadequate at present. In England, in case of sudden danger, the ministers could call upon the people to support the Government with its resources: but in our foreign possessions, which were widely scattered over the face of the earth, those resources could not be immediately called into action, and it would be therefore unwise to leave them exposed to the dangers of sudden invasion. These were the general grounds, without entering into details, on which he thought that there were just causes for increasing the army. He expected, however, that the hon. gent. if he took his information from the sources which were open to the public, would be greatly disappointed, when he learned what that increase was really to be.

Col. Palmer, after a long attack on the administration, and, in particular, the Sec. for foreign affairs, said that the ministers, in the King's speech, had again openly boasted of their friendly relations with those Powers who had as openly declared their hostility to all constitutional governments, and proved their intentions by their acts in destroying that of Spain. What, then, could be the basis of such friendship, but their mutual understanding and agreement upon that vital question of public liberty, the existence of which was incompatible with the principles the Holy Alliance stood pledged to establish? And that this was the fact, he boldly asserted, and believed; whilst of all parties concerned, the ministers of England stood deepest involved in the guilt. But, whatever the motives of the parties, for which they must answer to their God, it was their conduct the people had to look to; and whether the Government of France and Spain, the Governments of the Holy Alliance, or, above all, the Government of England, he denounced the whole as conspirators against the liberties of mankind—he accused them of having wilfully neglected that glorious occasion which the return of peace, and the destruction of Buonaparte's power, had afforded of re-establishing the liberties of Europe upon a firm basis, and of complying with the Powers of Europe against the liberties of the people, solely to prevent reform, in the abuses of their own governments. What better illustration of the strength, courage, and generosity of the nation, contrasted with the weakness, cowardice, and baseness of her Government, than the act of the rt. hon. gent., who, as one of the people

had advertised his subscription to the relief of the Spanish patriots, from whom, as Minister, he had withdrawn the trifling support the Government had allowed them; and whilst thus meanly truckling to foreign Powers, what greater proof of their tyranny at home, and the insolence of that faction which had usurped the powers of the constitution and larded it equally over the Crown and people, than that the same Sovereign, who had proclaimed the equality of civil and political rights to all his German subjects, was prevented by his ministers from doing the same justice to the Catholic population of his United Kingdom. And what was their excuse?—the danger to the Protestant religion. But was ever assertion so false, or hypocrisy so great, as that which pretended to believe it, but which well knew that the danger was not to the established religion, but to an enormous church establishment in Ireland, which required the expense of a large standing army to support it, in the teeth of all justice and true religion, and the sense and feeling of the people? As to Catholic emancipation, nothing short of it could give that strength to the Government which, under whatever form, was essential to support it; and if such had been the advancement of general knowledge and education, that this concession had been deemed necessary to the slaves of a despotic government to whom the freedom of the press was still unknown how much more necessary to that people, who in the establishment of their liberties, beheaded one king, dethroned another, and set up a third, to the exclusion of the legitimate heir to the Crown, whom the voice of the people declared to have forfeited his right? And unless the ministers could make up their minds to this measure, which if not conceded would eventually be forced upon them, they had better at once drop the curtain upon the farce they had so long been playing in that house, and either shut its doors, or at least march those out of it who dared impeach their conduct, as the Deputy Manuel was marched out of the French Chamber.

Sir John Newport complained of the manner in which the condition of Ireland had been treated in the Speech from the Throne. What was stated as a main fact respecting Ireland in that address, he absolutely and of his own knowledge denied. He denied that the Catholic Association had tended to disturb the peace of the country. On the contrary, he believed that that body had assisted, and most efficaciously, to tranquillize Ireland, and to afford the most powerful co-operation with the Irish Government, in producing that salutary effect (hear, hear). If the Catholic association were really dangerous, the country had to thank the Lord Chancellor, and the rt. hon. Sec. for the Home Department for its existence; for it was these gentlemen, who had in each house of Parliament declared, that the people of Ireland had, in point of fact, no interest, and felt no concern, in the discussions upon the Catholic question which had been pressed upon the Government—that the agitation of such subjects was kept alive only by a few. Now what was the fact? The association prepared their petition, and the people from one end of the country to the other, came forward to testify their deep interest in the proceedings of that body, and to contribute from their exhausted purses the necessary means for defraying the expenses of their measures. At first, it was said the



people cared nothing about the matter: then followed the establishment of the Association, and the demonstration of the popular feeling; whereupon ministers turned round, and threatened to coerce them into silence. He called upon them to recollect the motion which had been made by his rt. hon. friend (Mr. Wynn), in 1813 to put down the illegal society of Orangemen. In the debate upon that motion, the rt. hon. gent. (Mr. Canning) and a noble lord, then in the government (Lord Londonderry) had both declared that they relied upon the common sense of their country for rejecting and putting down such associations; and yet, notwithstanding these declarations, it was only now that ministers had come prepared to say, that the existing laws were not sufficient to meet the evil, and that new and more coercive ones were necessary. It was quite clear, he thought, that against the Catholic Association this measure was particularly directed, and against them alone (hear). Was it not notorious that high officers in his Majesty's government in Ireland were members of Orange Associations? Did they not know that official persons acted as Deputy-Grand Masters in these illegal societies? If any such were found in the Catholic Association, how loud would not the complaints have been! He concurred in praising the liberality of the late measures of Government, but why not extend the same wise policy to Irish affairs? The fact was, that they never acted wisely or liberally towards Ireland, and their periods of relaxation were always dictated by necessity. Trace the question historically. In the year 1792, when the present Lord Privy Seal (Lord Westmorland) was Viceroy, and the late Earl of Buckinghamshire his Secretary, an humble petition from the Catholics was driven out of the Irish house of Parliament by acclamation—a petition merely asking for a very moderate share of privilege: and yet in the very year after, a measure embodying far more relief than was supplicated in the previous petition, was carried triumphantly through Parliament under the auspices of this same Secretary. He was old enough to recollect the whole course of this question, and to remember that the eye of Parliament could not be brought to look upon it, until the fleets of France and Spain rode triumphantly in the British Channel. Let no man, then, be duped by the notion that the Catholics had reason to confide in the liberality of the British Government. If, at the time to which he alluded, the Catholic body was important, when a crisis befel the empire, how much more important had it not since become? It was never so consolidated as it was now; and that consolidation had been effected by the misgovernment of this country, and the repeated refusal of the just claims of the people (hear, hear). He lamented exceedingly the course which his Majesty's ministers seemed now disposed to take. Again and again he would deprecate this policy, at once baneful and absurd—this wretched perseverance, upon every flimsy pretext, of refusing the just claims of the people, until the arrival of some impending danger, which compelled the Government to bestow ungraciously, and thanklessly, what it conferred under other circumstances, and other times, would have been received as a boon (hear, hear). He had now done his duty; he could conscientiously say, *liberat animam meam*. But a few years remained to him in the course

of nature, but with his dying breath he would admonish ministers not to proceed thus towards Ireland; and his last words would be to warn them against the danger of prosecuting a system of restriction, which would bring ultimate ruin upon the country (loud cheering).

Mr. Peel said, that, on Thursday next, his rt. hon. friend near him (Mr. Goulburn) would submit a motion on the subject of the associations in Ireland, and it was the intention of his Majesty's Government to propose such a measure upon its own responsibility. That these associations in Ireland ought to be put down, he thought could not reasonably be denied—indeed, he thought that the warmest advocates for the liberty of the subject ought to call for their extinction. He spoke not of the opinions of those who thought that such a body trench on the supremacy of the Crown, or the privileges of the Executive Government; but of the opinion of every man who valued the proper privileges of the people, who respected the due administration of justice, and who wished to maintain the principles of rational liberty. No such man could think it reasonable that an association like this should be permitted to levy taxes on the people, or interfere with the administration of justice. For these brief reasons, he thought it would not be difficult to show, upon the popular principles of the constitution, that bodies arrogating such a power ought not to be permitted to exist. In his opinion, they trench upon the existing law—the Convention Act; the letter of the law was evaded, but its fair spirit was infringed. He could not easily bring himself to believe that the Catholics were prepared to identify themselves with the Association. He could not believe that a Christian sect and Christian pastors could adopt a bond of hatred so entirely at variance with the pious spirit which they professed. If, however, the Catholics participated in such feelings and opinions, then, indeed, how strong became the reason for excluding from political power persons capable of holding such tenets! It was not a little strange that whilst gentlemen called upon the Government to permit this association to remain, they were loud in their denunciation of another association in this country, against which the same cause of complaint did not exist. A learned gent. had last night alluded to some supposed difference of opinion among the members of the Cabinet upon particular subjects: he had talked of those who were always ready to sacrifice their opinions for the preservation of their places, and that there was one who would pocket any popular opinion of the day to preserve his official power. Of the Lord Chancellor, to whom the observations he alluded to were understood to apply, he could not speak in terms of adequate praise; but he believed he would go down to posterity as a man of exalted merits, and as the most consistent politician who had ever held the great seal. With respect to his own opinions, and for them he only meant now to answer, he could declare that his original view of the Catholic question had been strengthened by experience; and he claimed credit for sincerity when he declared that he was prepared to make any official sacrifice rather than abandon the principles which had suggested that opinion (hear, hear). The rt. hon. bart. who had spoken last, had said, that he

(Mr. Peel), and the Lord Chancellor, were the persons who ought to be held responsible for the establishment of the Catholic Association. He should only remark at present, that in calling upon Parliament to put down this association he was contributing to the tranquillity of Ireland: he had no doubt, that when the Catholics discovered their error, they would readily obey the laws, without its being necessary to enforce them by military coercion.

Mr. C. H. Hutchinson warmly defended the Association, which he contended had done much to promote the tranquillity of Ireland, however they might be talked of as a representative body or not. Upon the impolicy of the projects against Ireland, he entirely concurred in what had fallen from his *rt. hon. friend* (Sir J. Newport). For years he had deplored this fatal policy, and marked, step by step, the affliction of which it was the cause. It was the calamity of Ireland that the British Government had ever ruled her in a spirit of faction: discord, and not peace, had been their motto, and now they were again about to exasperate real grievances by coercion, instead of expunging from the statute-book those bitter penal enactments which disgraced the Protestant, while they oppressed and degraded the Catholic (hear). He denied the assertion of the *rt. hon. gent.* (Mr. Canning), that the proceedings of the Catholic Association had indisposed the public mind in England to listen to the Catholic question. That individuals disapproved of some of the acts of the Association, he readily admitted; but he denied that any public expression of hostility had emanated from any portion of the British public against the measure itself (hear). The *hon. member* then proceeded to deplore the peculiar evils which must result under the present circumstances from a perseverance in the proposed measures. He said that English capital was most fortunately flowing into Ireland; its value was most sensibly felt by all parties; but its continuance must depend on the security afforded for property by public tranquillity: and here was the Government proclaiming, unjustly and unwisely, that there was a spirit of insubordination in Ireland which must be suppressed (hear, hear, hear). He deplored the fatal consequences of this system, but he had the solitary consolation of having for years opposed it, from a desire to promote the prosperity of the British empire.

Sir T. Lethbridge said, that there was a strange inconsistency with regard to the Catholic Association. Some gentlemen admitted that it represented the Catholic body, while others denied that fact; and again, it was said, that not only did they represent the opinions of the people of Ireland, but those of the Catholics of England also. If the account of the friends of the association were to be taken for the correct one, it would appear that it formed a second body in the state, of equal power and influence with the Parliament. Then there were two Parliaments to represent the subjects of Great Britain. In his opinion one was enough, and certainly the constitution did not admit of a second.

Lord Nugent said, that the *rt. hon. Sec.* (Peel) had taunted his side of the house for imputing illegality to the Constitutional Association, which, in all its professed objects, was exactly analogous to the Catholic Association. Was the *rt. hon. Sec.* so blinded by the eagerness of debate as not to see that his weapon was double-edged? If the Catholic

Association were now declared illegal, had not his *hon. friends* near him a right to ask why, when that Constitutional Association was in being, was there no attempt on the part of Government to put it down by law? A word or two upon the observations which had been made as to the union of the Catholics of England and of Ireland. He assured the house of the correctness of the supposition that they were cordially united in their views. He believed that he was fully authorized to say that the Catholics of Great Britain were disposed to concur in every respect with the feeling and spirit evinced by the Catholic Association of Ireland.

Mr. Trevelyan wished to satisfy the mind of the *hon. member* for Cork, as to the confidence of English capitalists in embarking their money in Irish speculations. He had had the honour of attending a meeting that very day, of the Irish Provincial Mining Company, and their proceedings went forward with an animation which was not damped by any thing which had occurred in either house of Parliament.

Mr. Denman congratulated Ireland on the confidence of the Mining Company. As a lawyer, however, he would advise the *hon. member* and the company not to be too confident; they might, for any assurance he could give them to the contrary, be engaged in an unconstitutional proceeding; they might be acting in direct contravention to an existing law; their affairs, when deemed the most secure by themselves, might be found all at once the most cruelly embarrassed. As to the Constitutional Association, whether constitutional or not, the argument with respect to the conduct of ministers was the same. They were going to put down the Catholic Association by enacting a new law—by violence, by the army, by the sword. Why was nothing of all this attempted against the Constitutional Association? Surely there was something remarkable in this difference of ministerial conduct. Was not that, as the Catholic Association was now said to be, *impertum in imperio*? Was there not an Attorney-General who was no Attorney-General—a private individual who had the impudence to take upon himself the right of exercising the powers which could only belong to the law officers of the Crown, the meaning of his endeavours plainly being, to put down freedom of discussion throughout the country? There was, indeed, a violation of the constitution; but it happened to be a violation which played the game of power, and therefore there was no alarm given; no one objected; formal defences were set up for it by the immediate dependents of administration. What was the danger here, compared with that which was threatened to the constitution by the Constitutional Association? Defend the Catholic Association! God forbid that he should ever attempt it. He would not be bound to defend the proceedings of any public body—not even the body which he was then addressing. He could more easily defend the conduct of the Catholic Association, however, than that of the Parliament. It was astonishing that they should yet hope to keep down a great country, dependent on them, by violence, which continually bred discontent, and thus put themselves in danger of interference from the Holy Alliance. What dangers to ourselves and to Ireland might ensue in the meantime—what strife—what bloodshed and confusion—he could not foresee. They were attempting measures

towards Ireland in comparison with which the causes of the American war were trifles; they were placing Ireland in the situation held by America; they were bringing America to their own doors; they were doing their best to work eventual confusion. When the hon. bart. (Sir T. Lethbridge) undertook to represent the sentiments of the people of England, he was compelled to tell the hon. bart. that he knew something also of those sentiments, and he did not allow the faithfulness of that representation. That there were some opposed to the Catholic claims, perhaps, in the public-houses and low alleys of the town, among the eminently unfeeling and ignorant, was true. The hon. bart. must not flatter himself with the honour of representing the whole British people, if such were his sentiments. He hoped that the hon. bart.'s election did not depend upon hopes so futile (laughter). He believed that the opinion of every man in the country, whose opinion was worth having, was with the Catholics. An opinion so unfounded might be well enough for the hon. bart.; but he was grieved to hear the rt. hon. sec. (Canning) resort to so vulgar a play upon the passions of the public, as that which was implied in his remark about "bullying the people of England." An hon. member (Mr. W. Lamb) expected, that proofs would be produced of the dangers arising from the Association, and then he would yield his ready acquiescence to the measure. They had heard the rt. hon. sec. (Peel) declare, that no proofs would be produced; but that ministers, acting on their own responsibility, would proceed upon the notoriety of the fact. What a proposition! To proceed in the enactment of a penal law upon the reports of newspapers! He owned that he had not been sufficiently at leisure to trace the proceedings of the Association. He had read the address which they put forth, and he highly approved of it, excepting one expression so loudly harped upon by the two Secretaries of State. But surely one phrase in a printed paper, however indiscreet, though asserted and affirmed with that wicked deliberation which had been insisted upon, was no reason to justify new coercive laws. He should have thought that the Attorney-General of Ireland might have given them some wise cautions against the danger of confiding in newspaper rumours for the groundwork of their proceedings. And what, after all, was the danger? An association was in existence which was accused of raising money. What less could they do? Did not all other associations support themselves by joint contributions? There was a society for prosecuting poachers, very constitutional of course, for no complaint was made against them for raising revenue. But then the Catholic priesthood were not to touch it! Why? Were they not known as a body of men peculiarly respectable, admitted on all hands to be derived from the middle classes of the people? After a few further remarks in the same strain, the learned gent. sat down, cautioning the house against the delay of justice, from which he predicted the worst consequences.

Mr. R. Martin admitted that the Catholic Association represented the Catholic population. He knew it from his own experience. He cautioned the house against trusting in the assertion that the Catholic priesthood claimed the power of Omnipotence, which they exercised in the absolution and remission of sins. The fact was,

that they pronounced the forgiveness of sins in the identical form of words used by the Archbishop of Canterbury.—"If you repent, I absolve you!" the form of words was the same in the rites of both churches. The primate, archbishop of Tuam, would severely reprehend any priest who should affect a delegation of Almighty power in the absolution of sins.

Sir H. Parnell bore testimony to the fact that the Catholics of England and Ireland cordially concurred in the proceedings of the Catholic Association; and as he denied that ministers could make out the allegations of the Speech with respect to the Catholic Association, he should oppose the measure throughout.

Mr. M. Fitzgerald said, his alarm arose from the conviction that the Association represented, in the most complete manner, the feelings of the Catholic people of Ireland. The sentiment which actuated them was for the first time, in his experience, one and undivided. They were formidable, because they were suffering admitted injustice; and were united among themselves, while it appeared the intention of Government to continue the refusal of their rights. He was compelled, therefore, to deprecate in the strongest terms, the proposed measure of putting down the Association, because it would have the effect of driving the Catholics to some other course. It would be unfair in him not to avow that he had already heard the intention of doing so expressed, if the threatened suppression of the Association should take place. Nothing could be more natural than that this should be the result of such a step; for, while Catholic disabilities existed, the persons suffering under them would not relax in their endeavours to throw off the burden. It had been said in the House, that the rent which was raised for the objects of the Association was levied in the shape of a revenue: he was not aware that it could fairly deserve that name. It was nothing more than a voluntary subscription entered into by the Catholic population of Ireland for the protection of the people in various parts of Ireland against the oppression of the magistrates, by procuring legal assistance. But if any objection could be raised to this sum, and the manner in which it had been collected, how could any other similar subscriptions be justified? That of the Methodist Conference, for example, which was infinitely larger in amount, and which was unquestionably applied to political purposes. Although the Catholic interest in that House was comparatively feeble, the Methodist interest was very powerful. He recollected, that, in the last session, he had seen more external influence brought to bear on a question in which the Methodists were interested than on any other of which he knew—he meant that relating to Smith the missionary. He would add his feeble voice against the proposition of ministers, and would say that he looked with serious apprehension at the consequences which must result if the notice already given should be acted upon.

Mr. Butterworth begged to contradict the assertion of the hon. member, respecting the fund raised by the Methodist Conference. The whole of that was voluntarily subscribed. The members of the society were influenced by no compulsion. There were many persons of the same sect who did not subscribe. The hon. member must have been very imperfectly informed on

the subject on which he had spoken, as appeared by his allusion to the case of the missionary Smith, as that individual did not belong to the society of Methodists. That body never interfered in any political matters; nor was the money raised by them applied in any instance to a political purpose. In Ireland, he had reason to know, that a considerable number of Protestants had suffered in their circumstances, and their business had fallen off, because they had refused to subscribe. Gentlemen might say what they pleased about the nature of the Catholic rent; he knew that it had already created considerable alarm, and that individuals had been obliged to leave their dwellings in the country and to live in the towns, for their personal protection; and he thought that ministers would be extremely negligent of their duty, if they did not at once put an end to it.

Mr. Hume said, the Attorney-General for Ireland had been asked over and over to point out wherein the alleged illegality of the Catholic Association consisted; to these questions he had not thought fit to return any answer. The people of Ireland, and the Catholics were the people of Ireland, had been too long ill treated; they had too long remained quiet under the oppressions which were practised against them. At length they had come forward in a constitutional manner, and now be trusted their voice would be heard, and that no new persecution would be attempted. He had rejoiced to hear in the last session a declaration on the part of his Majesty's ministers, that the laws were to be distributed in Ireland with the same impartial justice as in England; but how that declaration was to be made consistent with the intention now avowed by ministers, he was yet to learn. There were now existing in England many associations which it might be said with as much reason were likely to be applied to dangerous purposes as that in Ireland. The Dissenters' Association, which was established for the purpose of defending individual dissenters from oppressive prosecutions. This was a lawful and laudable object, and was precisely similar to that of the Catholic Association. He would go further, and if he were a Catholic, he would say that the oppressions to which they had been exposed could only be borne to a certain extent, beyond which resistance became a duty. He had no doubt that if coercion, such as had been carried on, should be continued, resistance must be the consequence. The increase which had been announced in the military establishment, must in every point of view be unnecessary. It was impossible that any man could believe that such increase could be made for any beneficial purpose, or that it would have been made at all if it were not contemplated to bring the bayonet into use in Ireland. Up to the year 1792, 33,000 or 34,000 had been the greatest number of troops kept on foot in England in a time of peace. In 1821, the great military establishment then existing, was reduced from 60,000 to 76,000. Now, when his Majesty was constantly receiving assurances of the peaceful disposition of his allies—now that we were in the tenth year of profound peace, upon what rational pretence could this addition to the burdens of the people be justified? As it appeared, however, that the address to the Throne was a mere farce, he would not pursue the

subject or the intention he had formed any further; but he must regret that any thing should be done which might lead the people of the Continent, and of other parts of the world, to believe that the increase of our army was for some purpose that might produce disquiet.

Sir C. Forbes said he was happy to hear that a portion of the proposed addition to the military establishment was destined for India, and he could have wished that a larger portion—nay, even the whole of the addition, should be sent thither. He insisted upon the necessity of the troops being embarked with as little delay as possible, and that precaution should be taken, by not overloading the transports, to guard against the probability of the soldiers suffering from sickness during the voyage. He regretted that the war now raging there had been allowed to commence; but since it had done so, he was convinced it was highly necessary to put as speedy a termination to it as was possible. If it were allowed to continue longer, he believed that consequences might arise from it which would shake our Indian empire to its very foundation.

Mr. C. W. Fynn said, that papers were now in the press which he should be able at an early day to lay before the House, containing a body of information on the subject of the Burmese war which it was necessary that hon. members should be in possession of before any discussions could be entered upon. When the House should be acquainted with the particulars relating to this affair, he should be ready to enter upon the case of Lord Amherst, as fully as the papers might enable him.

Mr. Alderman Haygate, after applauding the measures proposed with respect to the Catholic Association, and the recognition of the South American States, hoped that in the reduction of taxation which the ministers proposed, they would do away with the assessed taxes, which affected the comfort and independence of the people more than all the indirect taxes. He was sure that if it were proposed to reduce the duty upon foreign wines or on windows, 19 hands out of 20 would be held up in favour of the latter. He congratulated the ministry on the popularity which they enjoyed at the present moment, and hoped that they would adopt measures to ensure its continuance.

The address was then agreed to.

## IRELAND. *Committee of Inquiry.*

THURSDAY, FEB. 10.—The Earl of Liverpool rose to move the re-appointment of a committee to inquire into the state of Ireland in a more extended manner than the inquiry which took place last session. Last session a committee was appointed to inquire into the state of certain disturbed districts in Ireland which were subject to the Insurrection Act. The principal ground for appointing that committee was to enable the house to judge of the necessity of continuing that Act, and the inquiry was very properly, by order of the house, confined to the counties which were then subject to its operation. The inquiry, therefore, was limited as to space; but it was found necessary to extend it to many other subjects than the state of the disturbed districts; and, indeed, to make it almost general. He would, therefore, move for a committee to inquire into the state of Ire-

land, and more particularly with regard to the circumstances which led to the disturbances in those parts of the kingdom which were the subject of inquiry last session. Under these terms, no fair subject of inquiry would be excluded. But he certainly did not mean to include the Catholic question. That was a subject of too paramount importance to be consigned to an inquiry of this kind. If, however, there were facts connected with that question which in the judgment of any noble lord might throw light on the inquiry, he would not object to their being investigated.

*Earl Darnley* :—If the noble earl meant to inquire into the state of Ireland without making the Catholic question his main object, and obtaining information respecting that question from those most capable of furnishing it, his inquiry would be useless. To overlook the Catholic question in an inquiry into the state of Ireland, was to imitate the strolling company who advertised the tragedy of *Hamlet* with the part of *Hamlet*, for that night, omitted. The more their lordships examined the subject, the more would they be convinced that Ireland never could be satisfied until the just claims of the Catholics were satisfied.

*Lord Holland* said, that many persons whose rank, wealth, talents, and intimate connexion with Ireland entitled their opinion to respect, had repeatedly urged the noble earl to agree to a general inquiry into the state of Ireland, but without success. A motion for that object last session had been rejected; and the only inquiry to which the noble earl would consent, was one which was limited to the disturbed districts. The disturbance in those districts was then ground of inquiry; but now that their lordships had come to the present session, what did they learn?—that there was no disturbance at all; so that the only narrow ground which the noble earl had for his former inquiry, was cut from under him. But upon looking further into the subject, we find there is one thing in the state of Ireland—the situation of the Catholics—one evil for which remedy is required. Oh, oh! we have got it now. Here is something to inquire about! “No,” said the noble earl, “that is not to be inquired into.” In appointing the committee, no reference must be made to that subject. The noble earl, in his caution on this question, resembled Marc Antony in his love, who gave licence to men’s tongues on all his other faults, but not a word of Cleopatra. It could not but be confessed, however, that the inquiry, though late, was still acceptable. He rejoiced most sincerely at the appointment of the committee, because he was sure its labours must prove useful.

The *Earl of Harrowby* said, the house would recollect that the last committee was not appointed for a general inquiry, because the proposed renewal of the Insurrection Act was the only reason for its institution. The intended measure rendered inquiry necessary into the nature and extent of the disorders which appeared to call for the continuance of the act. As to his noble friend’s observation on leaving out the Catholic question in his motion, their lordships would recollect that his noble friend had distinctly stated that he had no objection to the inquiry being so extended, that every fact bearing upon that question might be introduced; and he would on his own part state, that he had no objection to the introduction of

evidence of opinions, for that would also be fact, as it would prove the existence of certain opinions held by certain persons.

The motion was then agreed to.

### *Catholic Association.*

**LORDS, MONDAY, FEB. 7.**—The Marquis of *Lansdown* said, that, from what passed in the debate on the Address, an apprehension was entertained that ministers did not intend to lay on the table any papers connected with that part of His Majesty’s Speech which related to the state of Ireland.

The *Earl of Liverpool* observed, that the noble marquis’s impression was right. He did not intend to submit any papers to their lordships.

The Marquis of *Lansdown* then gave notice that he would to-morrow move an address to His Majesty for copies of all despatches from the Lord-Lieutenant of Ireland, relative to the political and religious societies in that country.

**TUESDAY, FEB. 8.**—The Marquis of *Lansdown* rose, in pursuance of his notice, to move an address to His Majesty, praying for copies of despatches relating to political and religious societies existing in Ireland. In the Speech by which the session had been opened, His Majesty was made to say that Ireland had partaken in the general prosperity of the empire; but it was added, that there existed in that country associations of a nature irreconcilable with the spirit of the constitution. Combining this with his Majesty’s subsequent recommendation to their lordships to adopt measures for suppressing these societies—combining it too, with the noble earl’s refusal to communicate that information which would be necessary to enable their lordships to form a right opinion on the subject; the house was placed in a most unprecedented situation. He did not remember any new restriction, even in time of war and public danger, having been imposed on the people, without a committee having been appointed to inquire into the alleged evil, or a communication having been made of the evidence on which such restrictions were grounded. It was now, as it appeared, intended to limit the freedom not of one, but of all classes. He had a right to assume this, for if there were any law capable of correcting the evil complained of, there certainly was no indisposition to enforce it. The acts of the associations, then, which were referred to in His Majesty’s speech, whether morally right or not, must be legal as the law now stood. Their lordships were, however, called upon, without any knowledge of the alleged evil, to provide a remedy for a danger at the moment when that danger was not pretended to be imminent (hear)—when the country was declared to be in a state of unexampled prosperity—and when all parties agreed that unusual tranquillity prevailed in Ireland. Different causes were assigned for this extraordinary tranquillity. The Catholic Association asserted that it was owing to themselves; the friends of the Lord-Lieutenant, that it was owing to his prudent management; the friends of ministers, on the contrary, insisted that it was entirely owing to the wise measures adopted by them, with respect to Ireland, for the last two years. But whatever difference of opinion might exist as

to the cause, there was none as to the fact; and he had, therefore, a right to assert that nobody existed in Ireland willing to disturb the public peace, or, what would do as well for him, none able to disturb it. What a moment then for this extraordinary proceeding! As if some conspiracy, some dreadful treason had been discovered, they were called upon to impose new restrictions on the liberties of the people, without even inquiring into the reality of the danger. But he should perhaps be told, that they had only to govern their proceedings by the notoriety of the case. If, however, there were ever a case in which this argument was useless, it was this; it was a case in which persons who had the best opportunities of information had been most notoriously deceived. The law-officers in Ireland, whose business it was to inquire into the case, and who had the best means of obtaining knowledge, had been completely deceived. The facts they endeavoured to establish in the case he alluded to—a case in which the witnesses produced to support the charge contradicted themselves and one another—were rejected, not by a petty, but by a grand jury. He, therefore, must conclude that the present was one of those subjects, in which, instead of relying upon loose reports, and newspaper statements, they ought to inquire strictly as to the facts. They had in the first place to be satisfied of the existence of evil; next, as to its nature, and by what remedy it could be put down; and in the third place, that in extinguishing the evil, they did not create a greater in its stead. Now, in all these points their lordships required information. They were about to engage in a task, which, even with every information, would be of a most difficult nature. It was one of which they might see the commencement, but of which they could not see the end. The learned lord on the woolsack, who was reported to be the parent of the forthcoming measure, had undertaken a task of which, from every estimate he could form of the abilities which the learned lord had brought to it, he could not anticipate success. In the absence of all information, he must speak from report, and if, as was said, the object of the measure was to extinguish the Association and the Catholic rent—he would tell him, that unless he could make it penal for persons to place confidence in others,—unless he could prevent people from giving away their money—unless he could prevent the sentiments expressed by one man from reaching the ears of another, and the money of one man from passing into another man's pocket—unless he could do all this, he would do nothing. Before he proceeded further on this point, he would notice the pretence, that the proposed measure was not a substantive bill, but a mere amendment of the Convention Act. Now, there was a much wider difference between them. The Convention Act was passed to prevent a form of proceeding which, whether an offence or not, was a tangible object. He would not now discuss the propriety of *delegation*; although he should be sorry to give an unqualified opinion against it, because the greatest and best men which this country ever produced had considered delegation a fit and constitutional mode for obtaining a redress of grievances. However that might be, at least delegation was a practice tangible by law; in like manner, were secret oaths. They might say

that the form of an oath should not be administered, for that, like conventional delegation, was a tangible object. But, when there was no form, no compulsion or oath, and when all that was done was founded in confidence, he would ask what more could be done by law, than getting rid of certain words? They might object to the term "association," or especially to the term "rent," for many people would have every thing under that name take a very different direction. Their lordships would recollect that a Secretary for Ireland had set himself against the "Catholic Committee," and he succeeded in getting rid of it; but the "Catholic Association" took its place. In like manner the learned lord might get rid of "association" and "rent;" but the question was, would not the people still meet and pay their money in spite of the law? The learned lord would find it a hard task to prevent men from paying their own money in any way in which they wished to pay it. Whatever might be the law, it was always difficult enough to get money into one's pocket, but he never heard of any difficulty in getting it out. Their lordships knew the story of Piron's applying to a member of the French Academy to abuse a comedy he was about to print—"for," said he, "if you abuse it in the Academy to-night, I shall sell every copy to-morrow." Now, had he been a member of the Association, and could have gained access to the learned lord, he should have asked him to say in Parliament that the Catholic rent was a bad thing, and then he should have expected it to be soon doubled. He would tell their lordships another anecdote. In a remote period of the connexion of the two countries, when those acts of violence which had always been too frequent in Ireland prevailed to a great extent, the Irish were accustomed to vociferate two words *Crom-a-boo* and *Butler-a-boo*. The correspondents of the English Government represented that those words were the cause of all the outrages which were committed. A meeting of the cabinet took place. It was resolved, that the obnoxious words must be put down, and an act was passed for abolishing them from the Irish language. But considering that the Irish would not be quiet if they were not allowed to use some exclamation, they were permitted to call out "St. George;" but if they persisted in using the proscribed words, they were to be hanged. Whether this law had the effect of abolishing the mischievous words was not known; but the outrages were as violent as ever. This act, then, had failed. but he could not tell how far the present might succeed. Their lordships must recollect, that it was against words, and words only, that they were called upon to legislate. It became them to consider whether, by expressing apprehension of the Association, they would not give importance to it, and increase substantially the very powers which they were nominally about to abridge. It was not necessary for him to apologize for, or explain the proceedings of the Association; nobody had any right to judge of those proceedings from report; but he had no objection to state, that if the reports were correct, he saw much in those proceedings to disapprove. But having said that, he must also state, that there were some of the proceedings of the Association which met his approbation; but because they were of that mixed character, he would not therefore at-

tempt to put down the Association, conceiving that it grew necessarily out of the condition of the Irish people. There existed on the surface of society evils of all descriptions, resulting from the habits and passions which degraded human nature, which no reasonable man thought of attacking, because they eluded the grasp and deceived the eye of legislation. If this were the case with respect to habits and passions, how much more strongly did it apply where opinions only were concerned. In a country divided by religious and political opinions, individuals should have an opportunity of presenting their opinions publicly, whether right or wrong. Opinions resembled those vapours with whose extraordinary powers we were daily becoming more acquainted, which, if pent up, would explode and sweep every thing before them; but if allowed to mix with the air, blended harmlessly with the common atmosphere (hear). On these reasons he grounded his motion.

The Earl of *Liverpool* said, that if the noble marquis had thought proper to wait for two or three days, he might have satisfied himself with respect to the proceeding to which his motion referred. But he would argue the question on the supposition of the noble marquis. The noble marquis said, that no abridgement ought ever to be made of the liberty of the subject without an inquiry being instituted on information laid before Parliament. If he meant, that no such measure should be adopted without sufficient grounds, he agreed with him. But those grounds might be facts of general notoriety, as well known to all their lordships as to Government. When their lordships passed a measure affecting the Orange societies, they did not ask for a tittle of evidence, or enter into any inquiry: but could it be said that they knew half as much of those societies as they did of the Catholic Association? He did not intend to argue that in acting in that manner regarding the Orange societies, they had acted rightly—he merely stated, that they acted without inquiry or official information, and only on the notoriety of the case. If it were intended that the measure about to be brought, should rest on official information, he would agree, that before they adopted the measure, there would be a fair ground for inquiry. But the measure intended to be introduced would not be founded on official information, nor, indeed, upon any circumstances which were not as well known to any one of their lordships as to his Majesty's ministers. It was the boast of the Catholic Association that all their proceedings were public; that every thing which they did, was done in the face of day, and before the world. If their lordships should adopt any measure affecting the Association, they would adopt it on evidence which no member of it would dare to deny. He could therefore see no ground for the motion of the noble marquis. The noble marquis supposed—for what reason he could not divine—that the proposed measure was the contrivance of the learned lord on the woolsack. Undoubtedly, the measure could not be introduced into Parliament without his concurrence, but certainly it was no part of his duty to concoct it. It was the measure of the Irish Government, approved of by the English Cabinet. It was adopted from a deep sense of its necessity to preserve peace in Ireland. He would ask, what must be the effect

of the political and religious animosities which such a society as the Catholic Association must produce? The noble marquis had said, that there must be inflammatory speeches in all public assemblies. But there was a great difference between inflammatory speeches in a divided assembly, and in an assembly professedly united (hear, hear). If men of different persuasions met together, warmth on one side would produce warmth on the other, and no further mischief might ensue. But in an assembly of men having all the same object, inflammatory addresses must be looked upon with a different feeling, especially when such speeches were followed by similar acts. The noble marquis had alluded to the case of an individual against whom a bill had been filed, which a Grand Jury had ignored. But did that prove what were the opinions—even of the Grand Jury—as to the conduct of the Catholic Association? The only inference is, that they did not understand certain words in the same sense as the Attorney-General, by whom they had been deemed seditious. It was on the acts of the body itself that the opinion of Parliament should be founded. If there had been inflammatory proceedings on the part of the Association, there never was a time when they were less justifiable than the present, both from the prosperity of the country and the general conduct of Government; for he called upon the warmest advocates of the Catholics, and those who most strongly condemned the policy by which Ireland had been hitherto governed, to declare whether there ever had been a period when justice had been more fairly administered, or when Government had shown a stronger desire to act with kindness towards the Catholic body than within the last few years. He looked upon the Catholic Association as being the greatest enemies of Ireland; for they drove wealthy people out of the country, stopped the flow of capital into it, and excited animosities which it was the wish of Government to remove. It was impossible that such a body could exist without creating opposite associations, which must be followed by a state of rancorous, religious and political animosity, incompatible with the well-being of any country in the world.

Lord *Holland* observed, that through the whole course of his speech the noble earl had carefully abstained from stating to their lordships what the motion was, or from giving any reasons why the information which it sought should not be granted. He had contented himself with saying, that the motion had reference to something of which the house knew nothing—although it clearly had reference to the King's Speech—and declared it unprecedented and uncalled for. The refusal, and not the demand of the information, would be unprecedented, indecent, and unjust. How often had the noble earl come down to that house calling for committees, and furnishing papers and information, which were to end in laws abridging the liberty of the people? When the noble earl brought down his green bags, containing volumes of libels on the people of England, no one had ever asked "What is the meaning of all this? There is no bill before us: the bill is in the House of Commons." It was strange, that when the house was called upon to apply a remedy to an evil, they should not inquire into

the nature and extent of the evil, because they did not know what remedy might be adopted. He thought it would be impossible for the house, if they had any respect for their character, or if they wished the proposed measure to carry any consideration out of doors, to refuse his noble friend's request. The noble earl was fond of precedents, and said that one for the intended measure was to be found in the bill respecting the Orange Societies, which passed, he said, unanimously, and without inquiry. How was it that the House was reconciled to that bill? It was merely the extension of a law already existing in England, and was originally introduced in a committee by Mr. Sec. Dundas, after a long and painful inquiry (hear, hear). From what had fallen from the noble earl, he conceived that the pattern to which he looked with respect to the intended measure, was the Irish Convention Act. At the time that Act was passed, there was a threat of a Convention to be held at Athlone, for purposes legal in description, but it was supposed with other designs. We were on the eve of a war with France, which, it was alleged, held forth its arms to receive the discontented of all countries, but more particularly of this. What happened? The noble Keeper of the Privy Seal (Earl of Westmorland) was then Viceroy of Ireland. Surrounded with the dangers to which he had alluded, what was the conduct of the noble earl when he came down to the Irish Parliament? Did he mark out the Convention for the notice of Parliament in the Speech from the Throne? No, he recommended conciliation, and concession to the Catholics. He began by a boon, and afterwards proceeded to adopt measures which he thought necessary for the safety of the State. The Convention Act was preceded by one which conferred upon the Catholics almost the only privileges which they enjoy. He contended that the nature of his noble friend's motion was mistaken: the question was not as to whether the alleged grievances required a remedy, but whether they were to adopt an important measure without information on the subject. It might be said, they had the King's Speech: they had; but what did they learn from it? It stated, that the Irish were more prosperous and industrious than ever—and that associations existed amongst them which called for a remedy. It then proceeded to recommend inquiry into the state of Ireland. Now, if the noble earl meant that no information should be afforded until after the remedy was brought forward, why recommend inquiry? According to the King's Speech, if any measure were to be adopted, it ought not to be adopted rashly; for it was stated in that Speech that the condition of Ireland was highly prosperous. When he read the passage relating to unconstitutional associations, he looked round him to see what association there could be of this kind, and it struck him that it was the Irish Cabinet (hear). That, indeed, was an association contrary to the spirit of the constitution; for it was formed upon a system of disunion and counteraction, which might be seen in every one of its measures, and which was only equalled in this respect by the English Cabinet. It was marked by the greatest inconsistencies, like the conduct of the Attorney-General of Ireland, who when he had instituted one foolish prosecution on one side, endeavoured to counteract it by a more foolish one on the

other. He was thus for *Crom-a-See* and *Butler-a-boo* both. The serpentine line may be traced in all that relates to Ireland.

—“*Penitusque in viscera lapsus  
Serpentis furiale malum, totiusque pererrat.*”

The real question before their lordships was, whether or not, when they were called on from the throne to legislate on evils said to exist in Ireland, they were to do so in the dark? If the necessity did exist, where so many millions were to be affected by the measure, it was, indeed, a frightful necessity, but still their lordships were bound to obey it: but he conjured them, as they valued the safety of the empire—he conjured them, as they valued the liberties of their fellow-subjects—he conjured them, as they valued the character of the laws of this country—not to have recourse, without full and substantial evidence of that necessity, to so baneful and disgusting a measure.

Earl Bathurst briefly opposed the motion. The principle brought forward on the present occasion was this—If, on the face of the public proceedings of this association, there were nothing to justify their lordships in adopting the proposed measure, then they would reject it; but if there were, their lordships would do well to wait until it was proposed, and then judge if the measure were equal to the occasion.

The Earl of Caernarvon said, that the noble earl had talked of statements, but he had heard nothing stated. He thought the noble earl would, as upon other occasions, have produced some documents to justify the strong recommendation which had been put into the mouth of His Majesty. He, however, did no such thing, whilst another noble lord (Bathurst) actually apologized for the little he was going to say upon the subject. Between both, in what a condition were their lordships placed? He would ask, were they to legislate on the preamble of the bill to be introduced on a future day? Were they to say “content” or “not content” on any bill which the House of Commons might send up, without having any information to guide them, and that upon a bill which might be of the most vital interest to the welfare and the safety of the country? Were they to proceed in this way upon such a measure as this when they would require evidence before them in support of the most unimportant private bill? The noble earl said that all the information was to be derived from the newspapers, and in the same breath he stated that the proposed measure was founded on the despatches received from the Lord Lieutenant of Ireland. The ministers said to the House, “We act on despatches: the newspapers are enough for you.”

The house then divided—

Content, 20—Not content, 42—Majority against the motion, 22.

COMMONS, THURSDAY, FEB. 10.—Sir G. Hill presented a petition from the nobility, magistrates, clergy and freeholders of the county of Londonderry, praying for the suppression of the Catholic Association. He should merely state the circumstances out of which this petition had originated. He could assure the house, that though much alarm had been excited in the minds of the Protestant popula-



tion of Ireland by the attempts of the Association to rule, tax and govern their Catholic fellow subjects, and to alienate their affections from the constituted authorities of the country, the petitioners would have left the suppression of the evil to the Executive Government, had they not seen a dangerous attempt to levy the Catholic rent in their own immediate neighbourhood. A subscription had been entered into in the town of Londonderry to build a school-house, for the education of Roman Catholics; an undertaking which several Protestants had benevolently contributed to support. The money so raised was given to the leaders of the Roman Catholics in that neighbourhood, who immediately handed it over to the rent, accompanying their gift with the usual inflammatory speeches (shouts of hear! from the Opposition). He said "hear" too, though unfortunately for Ireland, she had already heard too much upon this subject (hear, and a laugh). The petition was signed by 29 magistrates, 39 clergymen, and 1700 freeholders, in three days.

Mr. Dawson said that the petitioners would not have thought it necessary to come forward had they not seen it falsely and impudently asserted in some resolutions of the Catholic Association, that the feelings of the Protestants of Ireland were favourable to the Catholic rent. Nine-tenths of the Protestants of Ireland were, he believed, decidedly hostile to it. They were so, at least, in the county of Derry, where they were to the Catholics, in the proportion of numbers, as two to one, and in the proportion of respectability, property, intelligence and industry, as 1000 to one (loud cries of hear!).

Sir H. Parnell observed, that this was the only petition which had yet been presented from Ireland for the suppression of the Catholic Association. The hon. member had declared that nine-tenths of the Protestants were in favour of the measure for which these petitioners prayed; but he had only given his own authority for that declaration. He was obliged to meet this declaration with a negative; he would say that nine-tenths of the Protestants of Ireland were opposed to it. The hon. member must have forgotten how completely the petition of the Protestants some few years ago proved that they were not hostile to the cause of Emancipation. They were still animated by the same sentiments; and several petitions were now receiving their signatures in favour of Catholic Emancipation (cheers).

Mr. Abercrombie:—A requisition had been presented to the sheriff by several magistrates of the county of Waterford, calling upon him to convene the county to petition Parliament in favour of their Catholic brethren. The sheriff had refused to call the meeting, and he thought that that public functionary should explain his motives for doing so.

Mr. Dennis Browne declared himself of opinion that a permanent foundation of the peace of Ireland was only to be looked for in the relinquishment of all civil distinctions arising out of religious differences (loud cheers). He had advised the Catholics in his neighbourhood not to join in any of the popular schemes to obtain emancipation, but to wait patiently the change of feeling in Parliament. They had in general followed his advice; but when they found that the proposition for putting the Catholics of England on a level with themselves was rejected, against the wishes of the prime minister

(loud cheering from the Opposition), they had asked how much longer they were to expect their own emancipation.

The petition was then ordered to be printed

Mr. Goulburn rose to ask leave to bring in a bill relating to unlawful associations in Ireland. At the close of last session, he had indulged a confident hope, that the measures which Parliament had adopted, and the Government of Ireland pursued, would have been allowed to go on in a course of progressive benefit; but although the previous outrages which had disgraced Ireland had ceased—although the employment of the poor had considerably increased—although her trade had advanced in proportion, and considerable commercial establishments had grown up, yet there had also, unfortunately, grown up another power, unconnected with Parliament or the Government of the country, but attempting to control both. The Catholic Association had now assumed a character calculated to deprive the country of that returning peace and prosperity of which it stood so much in need; it had superseded all rational authority, by evading the existing law against illegal associations in Ireland. There were two subsisting acts directed against these associations: the Convention Act, passed by the Irish Parliament in 1793, and another of the session before last. The act of 1793 prohibited all assemblies for the appointment or election of deputies, or which assumed in any manner to represent the people of that country. The principle of representation was not the sole evil of which the legislature then complained. That principle, however, being the most tangible one, the legislature could more easily prohibit and suppress it; and the societies of that day had mostly assumed the representative character. But the Parliament had now to deal with an association which had carefully evaded the act of 1793. They did all the real business of representation without professing it in a single instance, and exercised within the letter, though not the spirit of the law, all the purposes of delegation and representation, which that law was enacted to prevent. It was allowed by a gentleman opposite, that this body proclaiming itself self-elected, did, in fact, represent the Catholic population of Ireland. Was the law, he would ask, to be thus evaded? Was the existence of a body to be tolerated which, to the plain common sense of every man, was intended to supersede the legal authorities of the land? He would now consider more particularly the constitution of the body which he called on Parliament to suppress. As he trusted it was only temporary, it might be met by only a temporary restriction. He was perfectly aware how tiresome it must be for the house to hear over again the proceedings of a body, which during the whole of its deliberations boasted of having courted publicity (hear, hear). From its commencement in 1823, it had unceasingly disseminated its proceedings. Its members stated in their first report that they confined their labours to the Catholic question alone. It mattered little to him, whether this was their only object, or whether they sought a reform in Parliament; or, ultimately, a separation from Great Britain. It was enough for him to know, that whatever was their object, their means of furthering it were incompatible with good govern-

ment. He should, on account of the publicity which they had already obtained, refrain from going into details concerning the Catholic Association. But there was this about it, in which it differed from almost every other body, that there was a concurrence of opinion among its members; that their efforts were directed to one point—that dissent was inadmissible—and therefore that it was without the clash of adverse opinions, which in other assemblies mitigated, if not neutralized, the violence of peculiar views. Another dangerous quality of this body was its indefinite duration. Imperfect as sometimes was the periodical control of the multitude, sickle as was its supervision, still it presented some control over other bodies: but this self-elected body continued without resorting to any fresh accession from the people. In this Association, there were certainly a few of the first class of the Catholic body—there were many disappointed individuals who sought personal aggrandizement, some of whom undoubtedly possessed considerable talents; their occupation was occasionally to discuss some real grievance, but more often to exaggerate some fancied one, to inflame the people by declarations that their legislature was corrupt, and their laws oppressive. There were also in the Association, surviving members of the Catholic Convention of 1793, who had abandoned the representative character against which the Convention Act was directed to assume that of virtual representation. There were men among these who had been rebels of old time; who had suffered the penalty of the law—men who were the friends of Tone, of Russell, and Emmett, traitors who had borne arms against the King's troops, when drawn out to oppose them. In this promiscuous assemblage were found a few members of the Catholic peerage and aristocracy, many of the Catholic gentry, and persons of property (hear, hear! from the Opposition). But it was not by rank or virtue that the members of such a society raised themselves to eminence: it was by pandering to the prejudices and passions of the multitude. In the exercise of their functions the Association proceeded according to all the recognized forms of Parliament—they had their committees of grievance, of justice, of education (hear, hear! from the Opposition), of finance—with persons regularly assigned and deputed to conduct all these investigations. These general committees had also subordinate agents, who had specific duties to perform. They had almost copied *verbatim* the seasonal orders of the house. The first act of this body was the imposition of the Catholic rent, which was called a voluntary contribution. There were regular collectors, and regular sums assessed under this name, so that it was by many felt to be an onerous and grievous tax. And so complete was the engine for collecting this payment, that there was a regular chain through all ranks, closely linked, to encircle the different gradations of society. The Association first ordered a sum of money to be raised: for this purpose the priesthood were employed, assisted by direct collectors, acting under their instructions, and with regular sets of books, in which were inscribed the names, condition, and rent of the individual; and what was of as much importance, the names of those who refused to contribute (hear, hear). It happened, that many gentlemen of the country had endeavoured to

dissuade the wretched peasantry from applying any portion of their inadequate means to the fund of this rent. The consequence was, that the Association denounced them, held them up to reprobation and scorn, and if not to the vengeance at least to the hostility of their fellow-countrymen. And this was called a voluntary contribution!—a contribution backed by the influence of the priest over his flock—his discretionary power of absolving (hear, hear)—a power which, whether the priest had actually made use of, or not, was still formidable, and which, when exercised in a political sense, was much to be deplored. In the constitution of this fund, then, there was a heavy grievance; and when they came to consider of its application, they would find equal cause of complaint. He would not object to the members of the Association for giving briefs to one another, and paying the fees out of the Catholic rent; nor would he criticise the regard shown by them to the liberty of the press, in retaining a considerable part of the Irish press in their interest—in persecuting another part of the press—in employing Mr. Cobbett, and disseminating his writings throughout the country. It was of their unjustifiable interference with the administration of justice that he complained (hear, hear). He knew he should be told, that there were institutions in England which had a similar object; but it did not follow that that which might be permitted here was equally permissible in Ireland. The Association interposed their influence in the ordinary administration of justice. The business of the court at quarter-sessions was perplexed by them; and they contrived to intermingle with the common interests of justice all the bitterness of political enmity. In every case of felony or murder, they assumed it to be their business to superintend the execution of the laws. Counsel were retained at head-quarters, who came down with the most exaggerated statements against any individual charged with any offence by a Catholic, or against individuals by whom a Catholic might happen to be charged. None of those courts could be free from the presence of some representative of the Association, intrusted with the business of watching over the administration of justice. Many magistrates of unquestionable conduct and of known impartiality, had complained to Government of the hindrances which were thus put in the way of the fair distribution of justice. Passing over the subordinate jurisdictions, he begged leave to call attention to cases which came before the higher tribunals. He would borrow his statements from the records of the Association itself. In the month of July last, according to the statement of the Association, a murder was committed in the parish of Ballybay. It was first notified by a correspondent, who styled it an “unprovoked and wanton murder of a Catholic by an Orangeman.” The letter, which was published, was transmitted, before the trial, to the Association. A discussion took place, and a Mr. Murray moved, that the business should be referred to a committee. The committee was appointed, sat, and reported. Authority was then given to institute proceedings for the prosecution of the alleged murder, and Mr. Kiernan was directed to conduct it (hear, hear). Did gentlemen mean by their cheering, that this was a proceeding of which they could

approve? An individual was to go to trial with the opinions of the whole Roman Catholic population called against him (hear, hear! from the Opposition). He would have to go to trial with the declaration of that body against him, as against one who had perpetrated murder upon political motives. But to continue. The trial came on. A host of evidence deposed, that the man charged with the murder jumped upon the throat of the deceased, kicked him in the side, and behaved to him, whilst struggling in the agonies of death, in a manner too disgusting to be related to the house. Nevertheless, the surgeon who had examined the wound deposed, and he was corroborated by one of their own witnesses, that the body evinced no particular marks of violence, and that the deceased had come by his death by the dislocation of the vertebrae of his neck, which, in falling, came in contact with a small post. The jury pronounced a verdict of acquittal (hear, hear). He begged their attention to what followed. The judge said, that he should not discharge his duty if he allowed the prisoner to go from the bar, without expressing, not only his very great satisfaction at the verdict, but his entire approbation of the prisoner's conduct in the affray—a conduct which tended to preserve the peace, instead of disturbing it, and which was highly praise-worthy (hear, hear). The particulars of the second case were more familiar to the house: it related the proceedings of a person, who was constantly entitled by the writer of the paragraph from which he read, "a ruffian." He was accused of administering unlawful oaths to the Catholic inhabitants of a certain parish. He was discovered to be a soldier in the 36th regt. and it was broadly insinuated that he was doing this with the connivance of Government. It was then recommended that he should be pressed by some one deputed by the Association, lest he should, through the interference of the magistrates, escape transportation, which he so richly deserved. He confessed that on reading this series of bold asseverations, he did not doubt but that some wicked persons had been at work to spread discontent in that part of the country, and that there must be some truth in a statement so hardly advanced, notwithstanding the disgusting imputation of guilt against the Government of Ireland. The accusation, conducted by the delegates of the Association, was heard before a numerous bench of forty-three magistrates, who declared, that there was no ground whatever for the charge preferred. The priest of the parish in which the accused had been taken up, admonished his flock to beware of those men whose pockets were full of the King's money, but who were only anxious to seduce them in the first instance, that they might afterwards shoot them like dogs: he denounced the individual from the altar, and said he would find out to what parish he belonged, and he would make his wife or mother, if he had either, leave the country (hear, hear). Let the case be transposed:—Suppose a man had been taken up under the Insurrection Act—suppose the Government had, even before trial, denounced him as only fit for transportation—suppose they had proceeded to molest the wife and mother of the party, and had expressed a resolution to make them leave the country;—what would have been the outcry against the Government for such conduct? That which would be execrable in the Government would scarcely be defended on behalf of the As-

sociation. There was a case of a police-officer who had encountered similar treatment, from which it was obvious that there was a design to spread a feeling of animosity against that useful body of men. The general tendency of these proceedings was perfectly plain; it was to excite in every case the acrimony of party resentment. He came next to the conduct of the Association within the last year; and he would confine himself to the month of December last. In that month they began to collect a revenue. In order still further to advance their object, they put forth an "Address of the Catholic Association to the People of Ireland," some passages of which he should advert to. In one place it said, "we advise you to refrain from all secret societies; from all private combinations; from every species of whiteboyism or ribbonism, or by whatever other name any secret or private association may be called" (hear, hear! from the Opposition). They proceeded to point out the inducements their Catholic brethren had to remain quiet—the power of the law, the inconvenience of indictments, and the number of innocent persons who, during former disturbances, had suffered for the guilty. Thus they could not caution the people to remain tranquil without libelling the laws of the country. This too, was addressed not to the well-informed and well-judging, but to the ignorant and illiterate—to men most likely to be led away by any statement from such a quarter. In the name of the Government of Ireland, and those high authorities by whom it was administered, he begged to repel this charge (hear, hear). There was nothing which had more seriously engaged the attention of the present Lord Lieutenant than the impartial administration of justice (hear, hear). There was no man better acquainted with this fact than the gentleman at the head of the Association, who, from his professional and legal habits, must be convinced that such was the fact. He next came to a memorable passage:—"In the name of common sense, which forbids you to seek foolish resources; by the hate you bear the Orangemen, your natural enemies (cheers from the Ministerial benches, re-echoed from the Opposition); by the confidence you repose in the Catholic Association, your natural and zealous friends; by the respect and affection you entertain for your clergy; by the affectionate reverence you bear for the gracious Monarch, who deigns to think of your sufferings with a view to your relief; and, above all, in the name of religion, and of the living God, we conjure you to abstain from all secret and illegal societies, and Whiteboy outrages" (hear, hear). And this was the doctrine infused into the great body of the Roman Catholics of Ireland! They were told that they were to look upon the Orangemen—and let it be recollected that the terms Orangemen and Protestants were nearly synonymous (hear, hear! from the Opposition). They were told to look upon the Orangemen with hatred! There was no possibility of taking the passage in any other sense. The danger of this form of words was pointed out to the Association, and their rejection was moved by one of its members. A division ensued, and the words were retained by a very considerable majority. It must be inferred, therefore, that this was a principle upon which the Catholics were prepared to act if they could obtain power. The document, thus worded, was distributed

throughout the country. Priests read it from the altars in preference to preaching a sermon. Was it surprising that the Protestants should view these proceedings with alarm, or could Government be justified in allowing the existence of a danger which threatened, not only to perpetuate political divisions, but to re-awaken religious animosity in all its bitterness? It was not so long since an association of this kind had existed, professing the same views—he alluded to the United Irishmen. Their object was Catholic Emancipation; but their subsequent proceedings proved that their covert intentions were rebellion and separation from this country. What, he might now ask, must be the consequence if Parliament did not interfere? Could they expect that the Protestant body, left to their own means for protection, would not constitute themselves into a counter-association (hear, hear)? Would they not be justified in assuming the same powers—in interfering in the like manner with the proceedings of the government, and of the courts of justice? They would be driven to this course in self-defence. The courts of justice, especially the subordinate ones, would be converted into arenas for the disputes of Catholic and Protestant advocates, who would appear, one on each side, in every case where the parties differed in religion. It was impossible for Government to allow this double domination. The Association must be put down. Two years ago he had introduced a bill for the suppression of secret societies; and he believed that subsequent experience had proved its expediency. In many parts that bill had not only modified the proceedings of these societies, but in many instances the societies dissolved themselves, though they had perfectly legalized their proceedings. Some of them had substituted for their secret oaths, the ordinary oaths of supremacy and allegiance, taken before a magistrate, as the only qualification necessary to become a member. He proposed to extend the provisions of that act. He proposed to make all societies unlawful, whose duration was permanent, and which appointed committees to meet for above a certain time, and levied or collected money. He proposed also to render illegal all affiliated societies, which excluded persons of any religious faith, and which took oaths otherwise than as directed by law. There would be exemptions of certain societies, which met for purposes connected merely with trade, agriculture, charity, and others of a harmless nature. The offence of belonging to such a society would be prosecuted by indictment alone; so that in cases of vexatious prosecutions, the Attorney-General might have an opportunity of interference. He believed that these measures would restore peace to Ireland, because he conceived there were no other means by which that house could show its due regard for its own rights—by which alone it could prove its disapprobation of measures that tended at once to overthrow the prerogatives of the Crown, and to destroy the privileges of the people. On former occasions attempts had been made against the power of Parliament; but he was one of those who thought that, when properly exerted, the great body of the people would still be brought to love and revere the legitimate power of Parliament.\*

\* The following was the substance of Mr. Goslaburn's bill.—After reciting the Con-

The question having been put, Mr. J. Smith said, that a great part of the rt. hon. gent.'s speech related to the conduct of the Association, of which he had given many details and statements. If they were to decide on mere personal statement, then certainly he should be as much satisfied with the statements of the rt. hon. gent. as he could be with those of any other individual. This would be justifiable in a private case. But when a great public measure was concerned, he could not rest satisfied with any details which came from the rt. hon. gent. unless they were borne out and corroborated by other authority. He should on this occasion, take the course which had been adopted on others—he should call for evidence. He regretted the scenes which took place in 1791: but as the rt. hon. gent. had touched upon it, he would call on him to look at the transactions of 1795. Did the rt. hon. gent. remember the cry of "To Hell or Connaught!" fulminated against the Catholics? Did he recollect the confiscation of their houses, and the destruction of their properties? It had fallen to his lot to present the petition of a person whose cottage had been forcibly entered, whose property had been destroyed, and whose arm had been broken—he believed by a party of Orangemen. They were subsequently tried and acquitted. But what had afterward occurred? The Seneschal of the district went to the house of this unhappy person, and took away his only cow (hear). If he went into this subject, he could show, that justice had not been properly administered, especially in the north of Ireland. If he wanted an authority on this subject, he could not quote a better than the late Lord Chancellor of Ireland (Redecliffe), whose observations spoke volumes on the subject. That noble lord had emphatically said, after an acquaintance with the country for many years, that there was one law for the poor, and another for the rich; and he added, that both were equally ill administered (hear, hear)! He contended that the association of the Catholics was produced by the union of the Orangemen. If the Orangemen were so united, was it wonderful that Catholics should also unite? The Orangemen were united by a common profession of faith, by common interests, by common passions and feelings. Independent of this, the whole established church in Ireland, had taken a strong part in the Catholic question; and they were connected with a most powerful party here. It was no less authentic, that Lord Sidmouth had held office, for a considerable time, as the security for Catholic exclusion. Such was the understanding; and what were the Catholics to do, when they found such power

vention Act, which prohibited all representative assemblies in Ireland, and stating the late evasion thereof by self-appointed societies; the bill proposed to enact, that every society acting for redress of grievances in Church or State, and renewing its meetings for more than days, or appointing committees, &c. or levying or receiving money; and every society composed of separate branches or divisions, or corresponding with any other society, or excluding persons of any religion allowed by law, or taking any lawful oath at any time or place or occasion not required by law, should be declared unlawful. The act not to extend to religious or charitable societies, nor to affect the right of petitioning.

ful bodies united against them? With respect to Orange Societies he had a strange story to relate. A letter had been put into his hand, purporting to be from the Earl of Liverpool, on the subject of these associations. From this it appeared, that in the year 1819, a private soldier died, amongst whose papers were found oaths and declarations, which proved that he had been a member of an Orange Lodge in his own regiment. The information was forwarded to head-quarters; and it produced an answer on the subject, in which it was stated that in accordance with two acts of Parliament, any soldier found connecting himself with a political society, was, for the first offence, subject to two years' imprisonment; and for the second, to seven years' transportation. This did not appear to be the case in Ireland. Now was it not extraordinary, that while notice of these two acts was given in a particular quarter, individuals here, of the highest rank, were allowed to join an association with which others could not become connected without running the risk of seven years' transportation? In Ireland, Orange lodges were suffered until two years ago to exist without molestation, when they became so troublesome that Government was obliged to take notice of them. If the acts to which he had alluded had been extended to and enforced in Ireland, he believed there would have been no Catholic Association whatever; and as that body assembled for the purpose of self-defence, he thought their conduct might be palliated (hear). The *rt. hon. gent.* said that he expected this measure of his to restore tranquillity. Let him look to the Insurrection Act. That also had been expected to produce tranquillity. But what had resulted from these harsh measures? They had been the means of continually irritating the people. He knew, from persons who held situations of trust, that of all the convicts sent to New South Wales, the Irish were the most decent and the most orderly. The reason was obvious. Most of those unfortunate persons were sent out of the country under those oppressive acts. There was one mode, and one mode alone, of tranquillizing Ireland (hear, hear); by granting to the Catholics a full participation in the rights of their Protestant brethren. Was it not shameful that such disabilities should exist, at a moment when they saw, in his Majesty's Hanoverian possessions, the most extensive toleration? When they saw the same toleration in Canada? In all those instances, that was done which ministers would not do for Ireland; no disturbances occurred amongst those large communities; they formed a population as peaceable and united as that of any parish in London. He would defy the *rt. hon. Sec. (Peel)* and the whole of the University he represented, to point out an instance, in ancient or modern history, where the most unbounded toleration had produced any thing but good (hear, hear). That was the true mode of managing religious sects (hear, hear). It was with grief that he perceived the measure was supported by the *rt. hon. Sec. for Foreign Affairs* (hear, hear). He certainly had hoped that if the Government really intended to check the Catholic Association, they would have acted in a very different manner—by measures of conciliation, not by measures of coercion. Why should the *rt. hon. gent.* support measures which blasted the feelings and exasperated the minds of those who sought for a fair

participation in civil rights? If he took a different course, no temporary popularity, no fleeting fame, would be his. A lasting and living fame would attend him who healed the wounds of Ireland. Let the *rt. hon. gent. (Mr. Canning)* accomplish it. The recollection of rescuing that country, of restoring it to those rights which had been so long withheld, would cheer him in his latest hour (hear, hear).

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throughout the country. Priests read it from the altars in preference to preaching a sermon. Was it surprising that the Protestants should view these proceedings with alarm, or could Government be justified in allowing the existence of a danger which threatened, not only to perpetuate political divisions, but to re-awaken religious animosity in all its bitterness? It was not so long since an association of this kind had existed, professing the same views—he alluded to the United Irishmen. Their object was Catholic Emancipation; but their subsequent proceedings proved that their covert intentions were rebellion and separation from this country. What, he might now ask, must be the consequence if Parliament did not interfere? Could they expect that the Protestant body, left to their own means for protection, would not constitute themselves into a counter-association (hear, hear)? Would they not be justified in assuming the same powers—in interfering in the like manner with the proceedings of the government, and of the courts of justice? They would be driven to this course in self-defence. The courts of justice, especially the subordinate ones, would be converted into arenas for the disputes of Catholic and Protestant advocates, who would appear, one on each side, in every case where the parties differed in religion. It was impossible for Government to allow this double domination. The Association must be put down. Two years ago he had introduced a bill for the suppression of secret societies; and he believed that subsequent experience had proved its expediency. In many parts that bill had not only modified the proceedings of these societies, but in many instances the societies dissolved themselves, though they had perfectly legalized their proceedings. Some of them had substituted for their secret oaths, the ordinary oaths of supremacy and allegiance, taken before a magistrate, as the only qualification necessary to become a member. He proposed to extend the provisions of that act. He proposed to make all societies unlawful, whose duration was permanent, and which appointed committees to meet for above a certain time, and levied or collected money. He proposed also to render illegal all affiliated societies, which excluded persons of any religious faith, and which took oaths otherwise than as directed by law. There would be exemptions of certain societies, which met for purposes connected merely with trade, agriculture, charity, and others of a harmless nature. The offence of belonging to such a society would be prosecuted by indictment alone; so that in cases of vexatious prosecutions, the Attorney-General might have an opportunity of interference. He believed that these measures would restore peace to Ireland, because he conceived there were no other means by which that house could show its due regard for its own rights—by which alone it could prove its disapprobation of measures that tended at once to overthrow the prerogatives of the Crown, and to destroy the privileges of the people. On former occasions attempts had been made against the power of Parliament; but he was one of those who thought that, when properly exerted, the great body of the people would still be brought to love and revere the legitimate power of Parliament.\*

\* The following was the substance of Mr. Goulburn's bill:—After reciting the Con-

The question having been put,

Mr. J. Smith said, that a great part of the rt. hon. gent.'s speech related to the conduct of the Association, of which he had given many details and statements. If they were to decide on mere personal statement, then certainly he should be as much satisfied with the statements of the rt. hon. gent. as he could be with those of any other individual. This would be justifiable in a private case. But when a great public measure was concerned, he could not rest satisfied with any details which came from the rt. hon. gent. unless they were borne out and corroborated by other authority. He should on this occasion, take the course which had been adopted on others—he should call for evidence. He regretted the scenes which took place in 1791: but as the rt. hon. gent. had touched upon it, he would call on him to look at the transactions of 1795. Did the rt. hon. gent. remember the cry of "To Hell or Connaught!" fulminated against the Catholics? Did he recollect the conflagration of their houses, and the destruction of their properties? It had fallen to his lot to present the petition of a person whose cottage had been forcibly entered, whose property had been destroyed, and whose arm had been broken—he believed by a party of Orangemen. They were subsequently tried and acquitted. But what had afterward occurred? The Seneschal of the district went to the house of this unhappy person, and took away his only cow (hear). If he went into this subject, he could show, that justice had not been properly administered, especially in the north of Ireland. If he wanted an authority on this subject, he could not quote a better than the late Lord Chancellor of Ireland (Redesdale), whose observations spoke volumes on the subject. That noble lord had emphatically said, after an acquaintance with the country for many years, that there was one law for the poor, and another for the rich; and he added, that both were equally ill administered (hear, hear)! He contended that the association of the Catholics was produced by the union of the Orangemen. If the Orangemen were so united, was it wonderful that Catholics should also unite? The Orangemen were united by a common profession of faith, by common interests, by common passions and feelings. Independent of this, the whole established church in Ireland, had taken a strong part in the Catholic question; and they were connected with a most powerful party here. It was no less authentic, that Lord Sidmouth had held office, for a considerable time, as the security for Catholic exclusion. Such was the understanding; and what were the Catholics to do, when they found such power

vention Act, which prohibited all representative assemblies in Ireland, and stating the late evasion thereof by self-appointed societies; the bill proposed to enact, that every society acting for redress of grievances in Church or State, and renewing its meetings for more than days, or appointing committees, &c. or levying or receiving money; and every society composed of separate branches or divisions, or corresponding with any other society, or excluding persons of any religion allowed by law, or taking any lawful oath at any time or place or occasion not required by law, should be declared unlawful. The act not to extend to religious or charitable societies, nor to affect the right of petitioning.

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penury. Why was it wrong in a priest to supplicate that House for a restitution of just rights? Was it not as wrong in a Protestant dean or prebendary to take part in a contested election, or to invite his flock from the pulpit to petition against Catholic Emancipation? It was the principle he hated. His opposition had nothing to do with persons. Another topic now presented itself—did this Association interfere with the administration of justice? On that subject he thanked the *rt. hon. gent.* for the two cases to which he had alluded, because they enabled him to substitute for the *rt. hon. gent.*'s conclusion, the true and rational one. With respect to the first case, the most important part of it, as represented by the *rt. hon. gent.* was, that the influence of the Association would make an impression on the jury, unfavourable to the ends of justice. In that case, the jury acquitted the prisoner. What conclusion, therefore, could be drawn from it but this—that the influence of the Association, if it existed, was perfectly impotent, as arrayed against impartial justice. He was not acquainted with the facts of the latter case, but if they were as they had been stated, he had no hesitation in condemning the conduct of that priest. But, not to mention that here also the accused had been acquitted, he must ask what this had to do with the Catholic Association? When the *rt. hon. gent.* opened his case to the House, he began to think that he intended to bring home to the Association, the charge of having procured the illegal convictions of persons whom they had assisted to prosecute. But, so far from his having done so, he had selected, in support of his charge, cases in which acquittal had been the result, not conviction; and where justice, by his own showing, had prevailed. The *rt. hon. gent.* had laid great stress upon the paper which had been put forth by the Association. For his own part, abating some of those expressions, which Irishmen were in the habit of using, he thought there was nothing in that paper which existing circumstances would not only excuse, but justify. After recommending the Catholics to cease from outrage, they reminded them that wherever offences should be committed by Whiteboys or Ribbonmen, innocent persons might be convicted, and suffer punishment for crimes which they had never committed. If they had said that innocent persons had been convicted, this might have had the effect of inflaming the minds of the people to whom the proclamation was adopted; but in the way in which it was put, nothing more was said, than what was very likely to happen. The Association went on to conjure the people to keep the peace, "by the hate they bore to Orangemen." If they had said, "We conjure you to hate Orangemen," then, he agreed, no terms of reprobation would be too strong for it; but the exhortation was to peace, not to war. Even if he could take the phrase in the exaggerated sense which had been applied to it, he could not therefore concur in legislating against the principle upon which the Association existed, and punishing the Catholics of Ireland, for one objectionable phrase. With regard to political associations; every body was familiar with the result of that Convention which was organized by the late Mr. Grattan, and which gave to Ireland the advantages of a free commerce. So long as the Convention adhered to the principles on which it was established, it continued powerful and successful.

The moment it departed from those principles, it was destroyed. So with this Association; whilst they adhere to just and reasonable principles, they will endure, and no longer. The *rt. hon. gent.* had asserted that the rent was collected by compulsion. If it were really so, then it must be nearly at an end; for no compulsion could be exerted for any long period. If it were really so, the more reason for letting the Association alone; a natural or violent death must shortly await it. If it were not so, this Bill would make it ten times stronger, and would unite all the various parties who were interested in the Catholic claims. Before the announcement of this measure, it was a problem whether the Association would be able to subsist, and obtain the confidence of the Catholics. The Bill had removed all doubts, and had raised the leaders of that body at once into eminence. Should the Bill be carried, it would infuse a greater steadiness and zeal, with a clearer sense of the necessity of attaining their object, into the minds of the whole Catholic population of Ireland. It had been said that this Association would throw the question of Emancipation further back. He was not dismayed by the assertion. The truth would make its way when the divisions would have been forgotten. Whenever that question came on, he would speak that which he knew to be truth, in the firm conviction that sooner or later it would sink into the minds of the intelligent public of England. If Emancipation had been granted at the union, it might have been conceded on much easier terms to its enemies, than it could be now, and every succeeding year must increase the disadvantages to those who would withhold it. But of all years that could be selected, the year 1825 was the most propitious, on account of the happy results which must follow such a measure now. Capital would be let loose by it from this country, and cover Ireland with prosperity; and he was not certain that the question might not be carried in the year 1825, and that in an unexpected manner (hear, hear). He should not be surprised at hearing some Orange member propose the emancipation of the Catholics, on condition of abolishing the forty-shilling freeholds; and thus afford a proof of that opinion, that the real ground of opposition to Catholic Emancipation is Protestant monopoly (hear, hear). With regard to Lord Wellesley's policy, he conceived it had totally failed (hear, hear). Lord Wellesley's known opinions had the effect of placing him in a delicate and difficult situation; but he wished to see him have fair play, and that he should neither be embarrassed by the Orangemen, nor made their instrument. His lordship's government had been represented as absolutely perfect. Now since the house was called upon to pass a bill which admitted that the state of Ireland was such, that the Government required extraordinary powers, it was plain that Lord Wellesley had failed; and he was convinced that every system must fail until Emancipation should be granted (hear, hear). Feeling that justice had not been and never could be done to the people of Ireland, and that all other measures would be hopeless, till Catholic Emancipation were conceded, he, for one, would resist to the utmost of his ability the proposition of the *rt. hon. gent.* (loud cheering).

Sir H. Parnell said that among the numerous



charges against the Catholic Association, the *rt. hon. Sec. for Foreign Affairs* had stated that there was no identification between that body and the Irish Catholics. He had denied it, in the name of the Catholics themselves. But the *rt. hon. gent. (Mr. Goulburn)* had taken great pains to show that the whole Catholic nobility, clergy and laity, were united with that body in feeling and opinion; thereby taking away the whole and only grounds upon which his *rt. hon. colleague* rested all his charges against them, on the first day of the session. It was true this last assertion had been qualified by a declaration that the nobility had pandered to the power and popularity of the Association; that, however, was sufficiently contradicted by *Lord Gormanstown's* letter, by the excellent letter of *Lord Kenmare*, and the declarations of *Lord Killeen*, the representative of the whole Catholic nobility, as president of the Catholic Association; all of which expressed a deliberate and voluntary approval of the conduct of that body. As to the legal proceedings of the Association, he was surprised that the heavy charges of the *rt. hon. gent.* should have ended in two cases, in both of which he completely failed to substantiate his allegations. He must relate some cases in his turn. He would begin with the first in which the Association was concerned. A quarrel between a Protestant and a Catholic was to be settled by a boxing match. The parties and their friends met; but the Protestants being provided with fire-arms, fired on the Catholics, killed one man, and wounded others. Notwithstanding this outrage, the magistrates refused to act. The whole business was on the point of being passed quietly over, like hundreds of similar cases, when the Association sent down an agent and a barrister to inquire into the transaction. The prisoners having been put upon their trials, the jury found a verdict of manslaughter; whereupon the judge assured the prisoners that they owed their lives entirely to the lenity of the jury. Another case in which counsel had been employed by the Association, was one relating to the misconduct of an officer of the police. This had excited much attention, as it was supposed to be a direct attack on the Government; yet the case was completely made out against the constable, and he was subsequently dismissed from his office. A third case occurred in the county of Cavan, in which there had been a riot and assault between an Orangeman and some Catholics. On that occasion a Catholic Counsel was sent down by the Association, and certainly nothing could be more decorous and proper than the manner in which that gentleman had conducted himself throughout the trial; there were no allusions on his part either to religious or political feelings,—he simply went through the business of the day. A verdict passed in favour of the Catholics against the Orangeman, a circumstance scarcely to be met with throughout the annals of Ireland. He knew the details of a fourth case, in which all the circumstances—the conduct of magistrates and jurors, and the state of party feeling in the county, fully justified the interference of the Association. Nothing could be more oppressive than the conduct of many justices of the peace in Ireland; and as far as the Association had lent their aid to bring delinquent magistrates to account, all reasonable men approved their efforts. As to the Catholic rent, if the money were subscribed for indefi-

nite or unknown purposes, he, as well as others, should have been inclined to suspicion; all suspicion, however, was removed by the regular accounts of the funds, and the appointment of comptrollers. No order had been sent by the Association, as the *rt. hon. gent.* had stated, for its collection by the Catholic clergy; they had only forwarded a request that voluntary meetings should be held in the parishes; but in no one instance that he was acquainted with, had either the collector or the treasurer been clergymen. A Catholic bishop had observed to him, that the Protestants were alarmed at the rent. It was not, he said, their object to raise a large sum otherwise than to contradict *Lord Liverpool's* assertion, that the Catholics of Ireland were indifferent to the question of emancipation. The *rt. hon. gent.* had referred to the Convention Act, and had rested the foundation of his measure on the policy of preventing delegation. But the principle of preventing delegation was not the principle which the Legislature had acted upon in 1793. The principle on which it acted at that period, was that of checking the progress of revolutionary principles. The members of the Association of United Irishmen were Protestants; their object was not Catholic Emancipation, but Reform in Parliament, and if they shewed a disposition to the cause of Emancipation, it was for the purpose of procuring the co-operation of the Catholics. He thought the principle of delegation a constitutional principle. The Catholic delegates were presented to his late Majesty by *Mr. Dundas*, and were graciously received. The opinion of *Burke* was favourable to the principle of delegation; it was scarcely possible to open any part of his works relative to Ireland without finding something relevant to that subject. He spoke of the impolicy of putting down opinion by force, and declared that it gave him no pleasure to hear of the dissolution of the body of Catholic Delegates. *Mr. Grattan* expressed similar opinions. He would put it to the House, whether, after having agreed in 1821 to repeal the penal laws affecting Ireland, they could now consistently pass this Bill against the Catholic Association? That Association was conducted by men of great talents; it had excited general attention to the Catholic claims, and had produced an unanimous feeling even in this country in favour of Emancipation. It seemed to him that *Mr. O'Connell* had listened to the advice both of his Catholic and Protestant friends, and when they considered the attacks made upon him by the Orange press, he seemed to have behaved with great discretion and moderation. The *rt. hon. gent.* had said that the measure was to be only temporary. Did he mean to say, that when this Bill passed, the country should hear no more on the subject? Let the house recollect what had already happened in Ireland. The penal code had for a long time enfeebled the Catholic mind; but there now existed amongst the people a more accurate notion of their condition. The conduct of the opposite party tended also to excite this feeling; he would mention that *Dr. Magee's* celebrated charge had produced an effect on the minds of the Catholic clergy not to be described. The rapid circulation of Bibles, and the lengths to which the spirit of proselytism was carried, convinced the Catholics that an intention was entertained of rooting out their religion. These circumstances, followed up by this measure, would show the Irish Catholics

what they had to expect from Government. Let the house bear in mind, that the union between the two countries, in the present state of the public mind, was a union only upon paper. Looking to what had passed before, on similar occasions, he should not do his duty as an Irish representative if he did not warn the house of the danger of this measure. He implored the house to consider the effects which this Bill must produce. How would the people bear it, and what was their numerical strength? In 1765, the population of Ireland was two millions. In 1795, it was four millions, and in the present year he did not overrate it at eight millions. What would be the situation of the empire, with a population of eight millions, the greater portion discontented and irritated? If a measure of this character were persisted in, he feared that in a short period the whole country would be in a state bordering upon insurrection (hear, hear).\*

Mr. L. Foster took that opportunity of expressing what he thought of the Catholic Association, now exercising all the functions of a Parliament in Ireland. They had avoided the form, but secured all the reality of representation. To the business of a Parliament they superadded the functions of the executive power, which were so wisely separated in the British constitution. They set apart one day in every week for open discussion, but the application of their immense pecuniary resources were settled by committees whose proceedings were secret, whose debates were not reported, and who were in communication with large bodies of men in several parts of Ireland. One of their most important functions was levying money, under the name of rent. In many parts the people said that they had already rent enough to pay, and did not want any addition. But when it was recommended and enforced by their own clergymen—when its objects were described and enlarged upon, the effect was different. What was at first unwilling and involuntary, became afterwards not only voluntary, but highly desirable (hear, hear). The resources of the Association became thus strengthened and extended from week to week. Confidence was excited by the increase of the rent, and in proportion as the confidence of the Catholics seemed to increase, so did the apprehensions of the Protestants in the same undue degree. The effect was immediate disunion between the religious persuasions. The moment rent was collected in a district, adieu to all good feeling in that neighbourhood (hear, hear)! The House had heard of Orange Societies; it was well understood that these societies were chiefly confined to the north of Ireland. In the south they were little known; but the peasant who got access to the speeches of the Catholic Association, in which the name of Orangeman was applied, not only to members of the Establishment, but to the whole Protestant people, was led to cherish hostile feelings against all but his own sect. Was it right that an assembly should be suffered to represent the Protestants of Ireland as hostile to their Catholic countrymen? The effect of this conduct was to sow disunion amongst all parties, and fill the country with alarm. In a few

days after the address of the Association was published, a rumour was spread that some personal mischief was intended on a particular day against the Protestants; and to such an extent did this belief prevail, that in several districts the whole male Protestant population remained up on the night in question, with arms in their hands loaded. This was particularly the case in Cloyne. Suppose that on the night in question, a cottage had accidentally got on fire—Might not a whole county have been involved in bloodshed by what these people would have considered as a retaliation for a supposed attack upon themselves? The expectation in which the rent was subscribed was, that some great spiritual advantage to their church would ensue. The success of the Catholic question would never satisfy this feeling. It was this which produced the readiness to contribute, and that extensive confidence in those who were trusted with the money. The Catholic clergy of Ireland were paid by voluntary contributions amounting to not less than 200,000*l.* a year. It was by applying to the contributors of this fund, at the same time, and by the same persons, that the Catholic rent was collected. How easy was it at such time, and for such persons, to suggest an addition of 25 per cent. to the usual contributions, and what a sum would it place (50,000*l.* a year) at the disposal of the Association? He said thus much of the effect of the Association upon the peasantry. With respect to the upper classes, there appeared in the Association a bold spirit of penetration into the affairs of private life, which, in matters of public discussion, were usually spared, save only in periods of revolution. The gentleman who was believed to be hostile to them, was held up to odium in all his public and private relations. His conduct, whether as father to son, as landlord to tenant, as neighbour to neighbour, or as host to guest, was exposed in its least favourable light, and he was publicly upbraided with speeches or actions which had passed in the privacy of domestic life. This was a practice not sparingly resorted to by some members of the Association. Was it necessary to point out the injurious effects of such a system? They must be evident at a glance;—but they were not its only evils. Another effect of the Association was, the power which it assumed with respect to elections. Was it fitting that a body with 50,000*l.* a year at its command, with all the influence of religion at its back, and with such means of annoyance as it possessed through the press, should name those who should, and denounce those who should not be returned as Members of Parliament? It was said that the Association contributed materially to the present tranquillity of Ireland. He granted it; but the tranquillity was contingent upon the granting of what they sought. In the interim, there would be silence—a silence of breathless expectation (hear, hear! from the Opposition). Ireland, however, possessed better guarantees for her internal tranquillity. It was unnecessary to go into details, but in defiance of Captain Rock, British capital was daily infusing itself into that country, and the good effects of it were felt in every part of the island. It was only lately that many restrictions upon the trade of Ireland were removed. With their removal her resources increased. Formerly, she was not allowed to export cotton. In 1822, the first year after the removal of that restric-

\* The report of this Speech has been published from a comparison of those in the newspapers; with the "Corrected Report" Ridgway, 1825.

tion, she exported 17,000 yards. In 1823, she exported 2,700,000; and in 1824, more than 6,000,000 yards. The linen-trade was spreading its benefits over the southern and western parts of the island. Since the removal of the restrictions upon the export of Irish spirits, there had been an extraordinary increase in the distilleries. In a word, there never was a period when British capital was so generally employed in that country. As to the past disturbances, the troubles of 1822 were, in fact, consequent upon the famine of 1821; so that they could furnish no argument against the generally improved condition of the country, arising from permanent sources. Another source of tranquillity was the excellent system upon which the police was now established. But a main cause was the tithes' commutation law, from which the greatest benefits had resulted. He was not indisposed to give the Catholic Association credit for having been instrumental in this tranquillity; but he must add, that it was the only power in that kingdom which was capable of interrupting the tranquillity which it had partly caused. If their power were allowed to go on, the peace of Ireland would be in the hands of the Catholic Association. A duplicate parliament was a favourite scheme with the Irish. In 1782, the volunteer association summoned a convention at Dungannon. Those who returned representatives to that assembly were among the most intelligent of the Irish population, who, with muskets in their hands, exercised this elective franchise. The parties returned were their colonels and officers, and merchants and men of substance; and they spoke of their House of Commons as if it were an assembly of venal and profligate members, who were bartering their votes, and selling their country (loud cheers from the Opposition). In 1793 a convention was again summoned at Athlone, and in 1810 the Catholic Board was set up. All these assemblies had been reduced by the exertion of a proper firmness on the part of Government, and he thought the same means must be now employed, to preserve tranquillity in Ireland, and to prevent any bad influence from impeding her advancing prosperity.

Mr. J. Williams was convinced that there had never been a question of such vital importance to the Irish people, and indeed to the whole empire, as this. It was unnecessary to wait for the development of the measure proposed; it was enough for him to know that the principle was vicious, and that no sort of qualification could make amends for this defect in the bill. As he anticipated no good from the old system of Acts of Parliament on one side, to meet violence offered on the other; as he expected no good from any thing but a removal of the causes of complaint; and as he had heard nothing that afforded a prospect of composing and conciliating Ireland; he felt it necessary to oppose the bill in its very first stage. Upon what principle did the *rt. hon. gent.* proceed? For, admitting the violent excesses imputed to this Association—to what did all the arguments of hon. gentlemen opposite tend? Where did the excesses of the Catholics, supposing them to have been committed, arise? Was there nothing to account for them in the severity of disappointment? Had no expectations been held out? Had the House of Commons never encouraged them by the result of its own votes to expect the boon they asked for? Was the grant of that boon never held out to them, even in the Cabinet—

or had no portion of his Majesty's ministers encouraged their hopes? Was it to be expected that men would, without a murmur, abide the cruel disappointment of those hopes, when that which was withheld from them had been, as it were, within their grasp; and when they who had once been their best friends turned round upon them, in a manner somewhat equivocal, he must say—appealing to a tumultuary feeling in the country, the existence of which he strenuously denied (hear, hear), but which the house might at any time put down, without resorting to measures of so dangerous a kind as that which was now proposed. He could illustrate this, and would embellish his speech by higher authority than any reasoning which he could bring to the subject. In a discussion in 1813, when misconduct had been imputed to the Catholics,—when “particular circumstances” existed—when the Catholics had assumed a threatening attitude—when, in fact, the same state of things was said to exist, as was said to exist now—the *rt. hon. person* he alluded to (Mr. Plunkett) delivered this sentence:—“Sir, it appears to me most unfair to visit on the Roman Catholics the opinions and the conduct of such assemblies as profess to act for them” (hear! from Mr. Manning). He rejoiced to hear that cheer from the *rt. hon. gent.*; for he rejoiced in supposing that they should have his powerful support, in addition to the same eloquent authority (hear, hear). The speech went on:—“If they labour under a real and a continued grievance, which justifies, on their part, a continued claim, they must act through the medium of popular assemblies, and must of course be exposed to all the inconveniences which attend discussion in such assemblies. In all such places, we know that unbounded applause attends the man who occupies the extreme positions of opinion, and that the extravagance of his expression will not diminish it. In such an assembly, there may be many individuals anxious to promote their own consequence, at the expense of the party whose interests they profess to advocate; and amongst those who are sincere in the cause, much may be attributed to the effects of disappointed hope, much to the resentment excited and justified by insolent and virulent opposition. But I should unworthily shrink from my duty, if I were not to avow my opinion, that the unfortunate state of the public mind in Ireland is, above all things, imputable to the conduct of the Government” (loud cheering). Now this blameable conduct of Government was, the holding out hopes not meant to be realized; affecting to advocate Emancipation, and proving their sincerity, from time to time, by majorities in that house, and at the same time not carrying the measure distinctly to its end; then, when some opportunity had been offered by the resentment of the parties who were smarting under the delay of justice, severely visiting them for their irritation. To be hesitating and divided upon such a question—to excite expectations from one side of the cabinet and to taunt them from the other, was neither more nor less than to deceive by holding out delusive hopes, and to trifle with the feelings of the people. In the extract he was about to read, the house would recognize the Attorney General for Ireland:—“Sir, I must say that the country has not been fairly dealt with. It is the bounden duty of the Government to make up their minds, and to act a consistent part. If this measure be inadmissible,

expectation should be put down; if, on the other hand, this claim may be acted on, it should be honestly forwarded. But how can any honest mind be reconciled to the ambiguity in which the cabinet has concealed itself from public view on this great national question; or with what justice can they complain of the madness which grows out of this fever of their own creating? This is no subject of compromise. Either the claim is forbidden by some imperious principle too sacred to be tampered with, or it is enjoined by a law of reason and justice, which it is oppression to resist. That a measure of vital importance should be suffered to drift along the tide of parliamentary or popular opinion, seems difficult to understand—that Government should be mere spectators of such a process is novel; but, when it is known that they have all considered it deeply, and formed their opinions in direct opposition to each other, that after this, they should consult in the same cabinet, and sit on the same bench, professing a decided opinion in point of theory, and a strict neutrality in point of practice—some holding out an ambiguous hope, others announcing a never-ending despair—I ask, is this a state in which the Government of the country has a right to leave it? (loud cheers)? If he were called upon to answer this grave question, he should answer, No. He should say, that to waste time in dividing and cavilling would be to surrender the best interests of the country. As long as this hesitation prevailed, what was to be expected in Ireland but that fever, that heart-burning to which the *rt. hon. gent.* had alluded? Did ministers imagine that if they could succeed in putting down the Association, they would put down all other organs of complaint? No—let it not be supposed, that this bill would be effectual in Ireland. To give it effect, force must be employed; and upon this principle, the proposed enlargement of our army was intelligible enough (hear, hear). In regard to the Irish associations alluded to by the *hon. gent.* who spoke last, he contended that that *hon. gent.* had failed to draw the obvious conclusion which his premises supplied—that every act of favour or justice had been followed by tranquillity and obedience. Let them receive justice. To the old nostrum of these legislative enactments he was decidedly adverse; the true remedy was justice to the Catholics. Government have begun at the wrong end, and must retrace their steps, instead of persevering in the system of penal laws. To attain the benefits they proposed, it was necessary to do justice and right to all ranks: this was the only mode, especially under the reign of a monarch who had shown in another kingdom how friendly he was, when not trammelled by the influence of his ministers, to measures of a wise, enlightened and beneficent policy (cheering).

*Mr. Peel* rose to state a few of those grave considerations by which his vote would be directed. He would first notice an argument of a learned member who had said that he would not vindicate the acts of the Association, and could not stand forward as their advocate, but still he conceived that these people laboured under such a grievance as took from the House all right of interference with their proceedings. Now he maintained, that from the moment they recognized such a doctrine, they would abdicate their legislative functions altogether. It seemed necessary to touch on this argument before he proceeded to any other; for if the prin-

ciple were once accepted, where was the end of its application? Where were these associations to terminate? There were many persons who considered the representation of this country so defective, that the people had no voice in the choice of the legislators. That, if it were true, would be a grievance of a heavy kind, and would call for an association for obtaining parliamentary reform (cheers). He hoped they would observe the extent of the principle: it would warrant an association for the redress of every separate grievance complained of by any class of persons, and Parliament must not interfere; for the subjects, and not the Government of the country, were judges of the grievance and its remedy. That was not his reading of the law. On subjects of grievance, the Parliament of England was the sole constitutional judge (hear, hear). Those who might think themselves aggrieved would have a right to their constitutional remedy by petition; and their petitions would be considered; but they must not act independently of Parliament. He should, therefore, unhesitatingly call for the interference of Parliament, if it could be shown that the proceedings of this Association were at variance with the constitution. This he would consider, in the first place, as a body interfering with the administration of justice. He should here follow the example of the learned *gent.* and quote the opinions of eminent men which applied to the present subject. He would refer to certain doctrines that had been mooted with respect to a confederacy which was formed about three years ago, and which called itself "The Constitutional Association;" but which, by those, who in that house were the advocates for decency and decorum, both in act and language, was termed the "Bridge-street Gang" (a laugh). Although he had never patronised that society, he saw a marked distinction between that and the Catholic Association; and that every argument which had been brought forward against the former, was applicable with tenfold force to the latter. But intending to follow the learned *gent.*'s example, and to embellish his speech with authorities (a laugh), he should now begin by quoting, with respect to such Associations, the words of one whose name was dear to every friend of liberty, and one that he mentioned with that respect which was due to his private character and public consistency, although he differed from almost the whole tenor of his public life—he meant *Mr. Whitbread* (hear, hear). "He did not pretend to any deep knowledge of the law, but he would contend that the association was formed against the common law of the land, and in opposition to the Act of Maintenance. That act was passed to prevent oppression; and he thought that subscribing to prosecute individuals at the suit of the King, came under the description of maintenance, and within the contemplation of the act" (cheers). He did not know whether the Catholic Association were aware of this act or not; but if this doctrine were true, that confederacy came within it. But he would resort to legal authorities, and would first refer the house to a learned civilian (*Dr. Lushington*), who was reported to have "commented upon the difficulty which persons, if maliciously prosecuted by the Constitutional Association, would have in recovering damages from the society. If counter-associations should be resorted to, nothing but dissension and ill-will

would be seen, instead of that peace and quiet to which the country was so anxiously looking." Why, suppose the individual aggrieved were the soldier whose case his *rt. hon.* friend had represented; would he not be exposed to this difficulty? And, in fact, would not the whole passage apply to the Catholic Association? But to resort to the ornaments of the common law: he would first cite the opinion of the Common Serjeant, that "the great objection to the constitutional and all similar associations was, that they could not exist without becoming a seminary for spies and informers." The case of the soldier who had been proved innocent, not by the verdict of a jury, but by the unanimous decision of a bench of 43 magistrates, differing in religion and politics, proved that the Catholic Association had given rise to a swarm of spies and informers. The learned gent. then went on to say, that "as to the formation of a counter-association, nothing could be more injurious to the administration of public justice than for two parties to be constantly running a race with each other, endeavouring to pour their several friends into the jury-box, and thus to gain a triumph over the law." Now, if all the Catholics of Ireland were subscribers to the Catholic Association, and if other associations were to be formed to counteract its proceedings, there would undoubtedly be a constant endeavour in both parties to pour into the jury-box their several friends, and thus to obtain over the law that triumph which the Common Serjeant had predicted. There were some who would ask him, "How is it that you, who approved of the Constitutional, are now so eager to repress the Catholic Association?" He was sorry to be diverted from the line of argument in which he was proceeding; but a fit opportunity was now offered of pointing out the broad distinction which existed between these two associations. For instance, he thought that the Constitutional Association, supposing a murder to have been committed, would never have published an *ex-parte* statement of the evidence by which it was to be proved; and sure he was, that they would never have got together a band of spies and informers to prove the commission of a murder which had never been committed (hear, hear). Yet all this had been done under the influence of the Catholic Association (hear, hear): so that there was the widest distinction between the two societies; the one limiting its prosecutions to the case of blasphemous and seditious libels, and the other extending them to the highest offences—the neglect of magistrates to perform their duties, and such crimes as murder. He had made this digression before quoting the opinion of the learned member for Winchester, who had said, that "in his opinion, a man might with perfect consistency approve of other societies, and yet disapprove of that under the notice of the house. The argument drawn from the societies for the prosecution of felons could not apply to the present Association. How was it possible that a man's feelings could be so interested in the case of a theft, as they would be upon a political question? Party feeling would interfere, and even the jury become contaminated with it, by the encouragement of such a society as this. The remedy proposed would be an aggravation of the mischief; for, as had been well observed, it would lead to the pollution of the very fountain of justice." The learned gent. had in these words described the

case of the Catholic Association. It prosecuted for offences which, in their nature, were purely political; and, by so doing, tainted the administration of public justice. They took upon themselves legal functions,—they sent agents to the country to prosecute for political offences, and from that moment they tainted the administration of justice (loud cheering). He should now advert to what had fallen from one of the most distinguished ornaments of the Court of King's Bench, who was entitled to have the opinions which he stated in that house, on points of law, viewed with the most profound attention. The learned member (Mr. Scarlett) went further than any of his learned colleagues. He said that "this society usurped the functions of the Attorney-General, and that a set of men arrogating to themselves such a power of prosecuting for political offences, assumed an unconstitutional power, which he considered dangerous, and which he could not easily be persuaded was legal." Having, then, these concurrent opinions from the other side of the house, that an association founded upon such principles, was, if legal, at any rate unconstitutional; that its proceedings were fatal to the impartial administration of justice—seeing that all the arguments which applied to the Constitutional, applied with still greater force to the Catholic Association—had he not gone a great way to prove that the house ought not to reject a remedy for so acknowledged an evil (loud cheers). He must now notice the discussion which took place in the Court of King's Bench, respecting the legality of the Constitutional Association: he need scarcely observe how strongly it bore upon the present question. A prosecution had been instituted by the Constitutional Association against Dolby, for libel. The sheriff, Mr. Garratt, who had been a subscriber to that association, had returned the panel from which the jury were to be chosen. A challenge was made to the array. It was objected to this challenge by the sheriff, that he had withdrawn from the association, and that he had publicly declared so in a letter to its secretary at the time of his being elected sheriff; yet, as he had paid his subscription, the Court held that he was disqualified. In the course of the trial his evidence was rejected on the same ground—that he was not indifferent. The same objection would apply with greater force, if a person in Mr. Garratt's circumstances had been a juror. Now, apply this rule to the Catholic Association. Was not every Catholic who had subscribed one farthing to this Association disqualified from sitting as a juror on any prosecution which it might institute? They had been told that evening that every peasant in Ireland was a member of the Association. If this were so, was not justice likely to be tainted (cheers), when nearly every person qualified to sit upon a jury was disqualified by his own act? Parliament had recently enabled Catholics to act as jurors; and grand jurors; and yet here was an act of their own body, which set them aside as jurors, if they had subscribed to the Catholic rent (loud cheers). Suppose an offence which involved a party question came on for trial, in what a situation would the Court be placed? His *rt. hon.* friend had detailed two instances, as a specimen of what was now going forward. To show, however, the extent of the nuisance, he would read an extract from one of the latest Irish news-

papers, from which it appeared, that at a meeting of the Association on Wednesday last, a gentleman made a report on the case of John Cahir, and the hon. and rev. Augustus Cavendish. This Association had appointed a committee to report upon the conduct of a magistrate, who, if the report were unfavourable, would be put upon his trial at its expense. Not content with this, they had resolved that a memorial should be presented to the Lord Lieutenant on the subject, and that a petition should be presented to Parliament, praying that Mr. Cavendish should be removed, as an unfit person to act as a magistrate. The Association, if its aim were justice, might, at least, have postponed these measures till the conclusion of the judicial inquiry. His knowledge of this transaction was obtained from a letter of the Earl of Donoughmore, which a gentleman who had not opposed the report, had read to the Association. Lord Donoughmore declared, that as governor of the county he had examined the charges against Mr. Cavendish, and had found them groundless; that he had transmitted depositions, taken during the examination, to the Lord Chancellor, who had not only acquitted Mr. Cavendish, but had applauded his conduct on the very grounds intended to criminate him. Now, when such was the opinion of a nobleman who had always been friendly to the Catholics, of the nature of their conduct, was it possible that the gentlemen of Ireland would undertake the duties of the magistracy, if they were to be liable to such attacks in the performance of them? For the vindication of the magistracy—for the maintenance of the laws—for the impartial administration of justice, he called upon the House to apply some remedy to this afflicting evil (loud cheers). He would proceed to call to their recollection the political nature of this body, which had now been in existence for more than a year, under the pretence of preparing a Catholic petition to Parliament. That body imitated, or, he should rather say, travestied the proceedings of that house—a matter of little importance in itself, but which, combined with others, assumed a certain degree of consequence. Its meetings were followed by alarm throughout the country; an alarm which an hon. bart. had attributed to the Bible Societies, and Missionary preachers. The strange notion of the hon. bart. recalled to his mind a fable, in which it was represented that a great pestilence had fallen on the beasts, and that they had an association to inquire into the cause. The lion, the tiger, and the other animals that delighted in blood, all asserted that they could have nothing to do with it; but having discovered that an ass had eaten a thistle on the Sabbath, they agreed that the ass must have been the animal that had called down the anger of Heaven, and sacrificed him to appease its vengeance (laughter). Did the hon. bart. make nothing of that address which had been so often quoted? Could he find nothing in it to excite alarm in the breast of every Protestant, when he found the Catholics adjured to unanimity by their hatred to Orangemen—a phrase which meant all the Protestants of Ireland (cheers). He did not mean to say that this body was expressly organized for the purposes of mischief; but it was calculated to excite suspicion. It had its agents in every parish, and its correspondent in every town. With such machinery, how

easily might it be converted into an engine of the greatest mischief? They declared it to be their intention to raise 40 or 50,000*l.* a-year. Of this sum 5000*l.* was to be employed in enlightening the public press of England; 5000*l.* in preparing petitions to Parliament. Then part was to be expended in keeping an agent in England; 5000*l.* in sending priests to North America; and 5000*l.* more for the conversion of their haughty and heretical neighbours in England (laughter and cheers). Then it had its committees of finance, of grievance, and of education! The assumption of such powers was, in his opinion, inconsistent with public liberty. The house was accustomed to admire the popular part of its constitution; but with what checks was it hedged round! They had their freedom of speech from the Crown, which could suspend it at any moment. If the house wished to prosecute an individual, it was done by addressing the Crown. But the Catholic Association was under no control as to its debates; and it instituted its own prosecutions, and even went to create prejudices against the accused by distributing *ar-parte* statements of the evidence to be produced against him. The consequence of all this must be, the establishment of counter-associations by individuals for their own protection; for if Parliament would not provide them protection, it might be taken as a certain truth, that individuals would very soon provide it for themselves. It appeared therefore to him, both with reference to the political mischief, and the corruption in the administration of justice which this association was calculated to create, that the house was bound to apply the remedy which his rt. hon. friend had proposed (loud cheering).

Mr. *Donnan* said that he had been so far misled as to suppose that the argument attempted to be drawn from the Constitutional Association had been completely disposed of on a former evening. As, however, it had been again produced, it required to be decisively answered, and if he failed in showing the total dissimilarity of the two associations, he would be content to vote for what he thought a mischievous measure. The rt. hon. gent. had referred to the manner in which he expressed himself three years ago on the Constitutional Association. Did that association meet to repel attacks made on itself, or to complain of the unequal administration of justice among its own members (hear, hear); or to volunteer the office of Attorney-General, and to undertake the prosecution of state-offences (cheering)? They acted as if the Attorney-General were either blind, or negligent, or inadequate to his duty; and thinking themselves very superior persons, when in point of fact, they were very inferior ones, instituted a series of jobs (great cheering), which they called prosecutions against individuals for offences, for which, if they had been guilty, they ought to have been attacked with *ar-officio* informations (cheers). The Catholic Association, on the contrary, subscribed only to prosecute those who had injured Catholics, and to repel aggressions under which he trusted that no class would ever rest quiet (hear, hear). They were aggrieved by degrading laws and unjust exclusions, and in consequence were treated with a degree of partiality by the magistracy of Ireland which was hardly credible in this country. They had therefore subscribed to repel injury and to or-

ganize a system of defence. It was not clear to him that the Catholic Association had ever prosecuted any offences which were in their nature strictly political. There was one particular case, that of the *Courier*, which had inserted a libel on the Catholic college of Maynooth. He asserted that this—an attack on the College where priests for the whole Catholic body were educated—if it were a libel at all, was a libel on themselves. But the Constitutional Association prosecuted individuals for libels, which but for their interference, would have died a natural death, and which the Attorney-General had acted wisely in leaving in their own obscurity (cheers). Such being the objects of the Constitutional Association, his hon. friend (Sir F. Bardett) had proposed to have the law enforced to put a stop to it, and not to make a law for the purpose. Nothing was so poor as great legal wits exerting their ingenuity to put down every artifice by which their cobweb clauses might be defeated as soon as they were passed (cheers). The rt. hon. gent. had rightly told them, that as the subscribers to the Constitutional Association had been disqualified to act as jurors in any prosecution instituted by it,—so, too, were the subscribers to the Catholic Association. But it was said they knew nothing of the names of the contributors to the Catholic rent: suppose they did—would that enable them to detect prejudiced persons, and disqualify them from sitting on juries, when the whole Catholic population must be held prejudiced, on account of the bitter exclusions to which they were exposed? The Catholic was not disinterested, as between Catholic and Protestant; but why? Not because he paid rent, but because he was oppressed by the Protestant. It had been said, that the Catholic Association had in point of fact fallen within the provisions of the Convention Act, for conducting prosecutions by delegation. If such were the case, the Constitutional Association had infringed the law, for they also had instituted prosecutions by delegation, and yet Government vindicated their proceedings. But with respect to the Constitutional Association, the Chief Justice of the King's Bench had laid it down, that it was competent for any body of men to prosecute offenders as they had done. Then why not for the Catholic Association? How was the distinction to be drawn between such societies as were legal in this sense, and the contrary? Had they not societies for the protection of religious liberty, formed by congregations of Dissenters, who co-operated to protect the law of toleration from being violated, and which, at every assize, were found conducting prosecutions for an obstruction of the right of worship; carrying them on with the greatest moderation and propriety, and raising money for defraying the expenses of such proceedings? They all knew what the Methodists had done, and the money they had raised, when in 1811 and 1812, Lord Shilbourn wanted to qualify the right of preaching in the Methodist congregation; and were the Catholics alone to be denied the privilege of complaint? With reference to the two cases of prosecution instituted by the Catholic Association, he was ready to justify both, from first to last. In the case of the soldier, suppose they had been misled by false information—how was that to have been known before the inquiry. He was acquitted, it was true; did it necessarily follow that he ought not to have been put on

his trial (hear, hear)? The other case, that of the supposed murder of the Catholic by the Protestant, had not, he thought, been fairly stated; and there again he would ask, did not satisfaction, and not injury, follow that inquiry? Was not the party acquitted upon the evidence of the prosecutors themselves? The same observation applied to the magistrate's case. Were magistrates to enjoy perpetual impunity? After the recent case in the Court of King's Bench, he hoped not; that case (Mr. Kenrick's) was a salutary lesson. They had been told, that the newspapers in the interest of the Association had blazoned forth the charges before trial, and excited an unjustifiable prejudice against the prisoners. Far be it from him to palliate such misconduct; but if it were true, there were laws enough to punish such injustice without fresh enactments. There was no necessity for this or any other purpose which he had heard stated, to call for a revision of the Convention Act, that consummation of legislative absurdity; an act, in which a clause was inserted to put down all representative bodies, excepting the two Houses of Parliament and Convocation, and certain corporations. Although, why the House of Commons should have been excepted, he could not conceive, as no man could have accused it of representing any part of the people (a laugh). The act deprived the people of the natural vent for their complaints. They then met in secret clubs and cabals, and a political explosion was the consequence. He hoped Parliament would profit by their example, and avoid this precipitate legislation. When the rt. hon. gent. (Mr. Peel) supported this bill for putting down the Catholic Association, did he forget his own letter, in which he had wisely and avowedly recommended the abolition of Orange processions? Why did he take a different course now? Why did he not take those gentle means? Why deprecate legislative interference, with the tremendous Orange Associations, and now call for penalties and coercion against the oppressed? It was time that Parliament should seek for some other remedy for the evils of Ireland, than the augmentation of penal statutes. Why not try the only remedy—Emancipation? Let them not be met by excuses about the unfitness of the time. Was the time less fit now, than it was two or three years ago, when the rt. hon. gent. (Mr. Canning) introduced his bill of relief for Catholic Peers? What right had that rt. hon. gent. to say that the labours of Fox and Grattan had wrought no conviction upon the British mind respecting this measure? Was the proof of his opinion to be found in the increasing votes of Parliament? It was strange that just as the rt. hon. gent. was balancing about a re-union with his old friends in the Cabinet, he usually discovered some alteration in the public mind of England upon the Catholic question. So when he was preparing to embark for India, he discovered that the Catholic question could not be carried, and therefore ought, for the present, to be postponed. But how did the fact support the rt. hon. gent.'s calculation, when in the following April, in a house of 500 members, the Catholics had a majority, which increased in every stage of the bill that then passed the House of Commons? The majority comprised the members for Northumberland, Durham, York, and Middlesex. Looking at the towns as well as the counties, there appeared at least an equal division in

favour of the measure. Among these were the members for Newcastle, Durham, York, Lincoln, Nottingham, Derby, and Northampton, to say nothing of the members for Westminster, Middlesex, and Southwark. In London, the members were three to one against the measure, though they had been three to one in its favour in the preceding Parliament; so that the whole estimate was decidedly in favour of the Catholic claims. He admitted that the rotten boroughs had sent forth opponents to the question. He found such among those who represented nobody, except the treasury, the peerage, or their own pockets. He knew, indeed, that the Church, with the exception of its most enlightened members, was opposed to the Catholic claims; and if he looked round, he found them as active in getting up petitions, as the other clergy were represented to be in collecting the Catholic rent (a laugh). He was not surprised at this in the Church, which, as a great chartered body, that had separated from its elder sister, was of course tenacious of its monopoly. How they flung at obnoxious tenets in the religious belief of their opponents! Thus, they had a great objection to its arrogating the power of absolution. Now, where was the great difference, after all, between this branch of the doctrine of the two churches? In the ordination of the Protestant priests nearly the same form of ritual was observed. It was true, this doctrine was capable of being grossly misapplied; and, when it was so, let the abuse be complained of, and not the doctrine. The spirit of Protestantism had greatly mitigated some of its particular tenets, and if persecution were withdrawn from Catholicism, the same result would follow. It was a mockery to treat Christianity in this way, and pick out names as grounds of exclusion, after the fashion of this wretched Convention Act. The Established Church formed a compact extensive body, which presented a dangerous hostility in such a cause; and there was a similar hostility in another high quarter in the state—he meant the Lord Chancellor, an eminent and illustrious man, remarkable for the ability with which he had succeeded in securing to himself for twenty-five years the honours and emoluments of the state—a man who had law in his voice and fortune in his hand, and who, whether he opposed the schemes of liberal feeling at home or abroad, was undoubtedly a formidable opponent. But why was the successful exercise of such power permitted, when justice and the tranquillity of the country required concession and liberality. He was astonished that the *rt. hon. Sec.* (Mr. Canning) could consent to accommodate his sentiments upon subjects of vital importance to the taste of such a person. But the cause of Emancipation had been betrayed throughout by its official advocates. The Attorney-General for Ireland had introduced the measure with his customary pomp of eloquence, and carried it through that house with his customary power of persuasion. A few months after, that learned gent. slipped into office without the slightest stipulation for the Catholics. The Marquis Wellesley was their firm and steady friend. But no sooner was he appointed, than his Government was neutralized, and deprived of all masculine power (loud laughter) by the addition of a Secretary who was totally opposed to liberality. Another party, the Grenvilles—who had honourably

sacrificed office in conjunction with Mr. Fox, rather than give up the Catholic question, had in the end been no more faithful than the rest. They had some time since returned to office, yet nothing had been done for the Catholics.—The learned gent. sat down, after declaring his conviction that this was one of the most unjust, unfounded, and as he believed it would prove, the most destructive measures which had ever been applied in this or any other country (cheers).

Adjourned at a quarter past two o'clock.

FRIDAY, FEB. 11.—The adjourned debate being resumed,

Mr. *Grattan* said, that justice had not been done to the Catholic Association. All the violent speeches of its members had been quoted, but none of their opponents. When they had heard so much of the press of Dublin and the Catholic clergy on the one side, they ought to be informed of the press of Dublin and the Protestant clergy on the other. The Association had in fact arisen out of the vituperation of the latter party: they were in fact a counter-association for purposes of self-defence, and they ought, at all events, to be heard by counsel before this bill was enacted, which was no less than a declaration of war against the Catholic party; it was an Orange bill, not one framed by the English Cabinet, but hatched by the corporation of Derry (hear, hear). The effect of coercive measures in Ireland had always been to alienate the affection of the Catholics from the state, and to split the community into parties acrimoniously opposed to each other. He knew that many of the plots which were conjured up to disturb the peace of Ireland were the work of spies, who were formed by the present system of police, which partook of the defects universal in the administration of justice in Ireland. He justified the expression, "by the hate you bear to Orangemen," which was naturally provoked by the gross abuse of the Catholics and their priests, who were treated by a large portion of the Dublin press as traitors and demagogues. The *rt. hon. Sec.* for Ireland knew that such was the language of the Dublin Mail, the Antidote, the Star, and other Irish papers, which while they were prosecuted by one part of the Irish Government, were supported by another.

Capt. *Maberly* complained of his Majesty's Ministers bringing forward this ruinous measure on the pretext of notoriety, when they were not even themselves agreed as to the facts on which they pretended to found it. The *rt. hon. Sec.* for Ireland said, that the Association was a virtual representative of the Catholic population. The *rt. hon. Sec.* for Foreign Affairs contended, on the contrary, that it was not, and maintained that it ought to be put down on that ground. The term *virtual representation* had no meaning. It was coined in this country at the period of the American Revolution. The Americans were told that they were virtually represented in Parliament. Finding some difficulty in the expression, they cut the knot, and had a Parliament of their own. It was said, that the Catholic Association affected modes of proceeding similar to those of the British parliament. They had a president, undoubtedly, because, without some head, their proceedings could not be conducted; but there the analogy dropped. All their other forms were modelled with a regard to convenience and to the dispatch of



business. He had had some experience of the condition of Ireland during the last recess, and he could testify, that in the parts he had visited there reigned the most perfect peace and submissive obedience to the laws. In those parts which had for many years been distinguished for murder and commotion, all was quiet; rents were collected where they had never been collected before; leases were eagerly sought—an unfailing proof of returning order, since, in times of disturbance, the peasantry chose to trust to the chapter of accidents rather than burden themselves with the obligations of a lease. He gave ministers due credit for their measures; much good had arisen from the tithe commutation and the insurrection act, and a great deal more from the police act. But it was not to ministerial policy that the tranquillity of Ireland could be attributed. Ireland was improving, because she was more prosperous; the condition of the people was rising, and their morals rose with it. Agriculture, which was the basis of their wealth, was rising in prices, and English capital was rapidly flowing into Irish commerce. Some causes of irritation remained which had not been noticed. He particularly alluded to the Bible Societies—those crusades, as he might venture to call them, against the settled sentiments of morals and religion which prevailed among the Irish. He had tracked their course through the counties, and he had observed agitations and tumult to be their uniform effect. With education on their lips, proselytism was the object hidden in the hearts of the Bible Missionaries, and they refrained from no measures, however detrimental to the public peace, to effect it. With the permission of the house he would read a few passages from their own account of a meeting of the Carlow Bible Society. There was a strong disposition to theological controversy between the Protestant and Catholic clergy, and at this meeting three sufficient champions were appointed on each side, to try what was deemed to be one of the chief questions between them. But he would proceed:—

“Mr. M’Sweeney:—I choose to personate a Socinian: how will you convince me, on your own principles, of the divinity of the Saviour. *Novus Pater est major me*—my father is greater than I. How do you explain that?”

Mr. Pope:—By fair legitimate reasoning. If the Redeemer be declared God in very many passages, as I have shown this morning that he is, then we must look for some explanation of the passages that will not militate against them. I inquire, ‘Is there any sense in which the Saviour was inferior to the Father, without compromising his essential divinity?’ The answer is obvious—in his mediatorial office, and in his human nature. This, then, is the explanation I would give: Christ, while one with the Father, and equal to him in his Godhead, is inferior to the Father in his mediatorial capacity, and in his manhood.

Mr. M’Sweeney:—That will not do, Sir; you have proved nothing—you have given an explanation that may satisfy yourself of there being nothing in the passage inconsistent with the equality of Christ with the Father, considered as to his divine nature.

Mr. Pope:—I don’t know what the gentleman means by ‘proving nothing.’

Mr. M’Sweeney:—‘The Father is greater than I.’ You have not, Sir, explained this text so as to satisfy a Socinian, though you

spoke for three hours and a half, and during your speech you wandered considerably from the subject” (laughter).

“Mr. Pope:—I certainly did speak for a long period, but I deny that I wandered from the subject (loud cries of “answer the question now”).

Mr. Daly:—Mr. Pope has answered the question, and I appeal to you all if this is not fair play. Should not he answer the question now? You are all honest Irish fellows, and I am sure like fair play.

Mr. M’Sweeney:—I will refer to the Chairman, whether you have answered the question or not.

Colonel Rochfort:—I must decline pronouncing an opinion on the subject (bravo, and loud cheers).

A gentleman noticing the disposition to riot, proposed to adjourn the meeting. The scene of tumult which followed this proposition lasted for several minutes. The Chairman endeavoured to calm the meeting. The Rev. Mr. Shaw endeavoured to address them; but it was impossible to catch a word from him. It appeared to be the intention of the mob, not only to prevent the rev. gent. from being heard, but to proceed to acts of violence towards the Protestant clergy on the platform. The temporary barriers were thrown down, several of the candles extinguished, and a scene of riot and confusion took place; at once disgusting and disgraceful. The doors of the chapel had been closed, and the violent knockings and yells of those without contributed not a little to the horror of the scene. The officer commanding the police, intimated to the clergy of the Established Church, that he could not answer for their lives, unless they immediately retired. The Rev. Messrs. Wingfield, Daly, Pope, and Jameson, were obliged to scale a wall eight feet high, and escaped the attacks and insults of an infuriate rabble.

Mr. Clowry asked if the meeting was adjourned, and for what period.

Chairman.—The meeting is adjourned *sine die*.

Mr. Clowry.—Then I am quite satisfied for the present (loud and triumphant cheers).

The Rev. Mr. O’Connell then ascended the pulpit, and gave thanks to God for the triumph which had been achieved, and also to Col. Rochfort for the manner in which he had contributed to it” (loud laughter from all sides of the house).

This was a specimen of the effects produced by the efforts of those gentlemen who went over to Ireland for the purpose of educating and giving religious instruction to the Catholics or Ireland. Since the institution of the Association, however, these heats and animosities were given up by the Catholic clergy. They trusted their political interests to that body, and hence their readiness in contributing to the rent. He could assure the house, on his own experience, of the entire confidence of the Catholics in the Association. Should this measure, therefore, pass into a law, all hopes of obtaining redress by constitutional means would be at an end, and no man could answer for the extent or mischief of the consequences.

Sir N. Colthurst, after observing that the Catholic Association was at variance with the laws and the constitution, said that he had been told of a person of great respectability, who had set his face against the collection of the Catholic

rest upon his estate, having received the following letter from the priest of the parish:—"Dear Sir,—A report is current here, that you have interfered to prevent your tenants from contributing to the Catholic rent. May I, in the most respectful manner possible (loud cheers from the Opposition) request that you will give me leave to contradict, in the most positive way, a report so unworthy of you, as I am obliged, in the course of a few days, to render an account of those persons who are opposed to the collection of the rent" (renewed cheers from the Opposition). He could not but view such proceedings with alarm, and he trusted in the wisdom of Government, which had done so much of late for the peace and welfare of Ireland, to put down the Association.

Col. *Davies*, upon mature deliberation, could make out no case of such exigency as would justify the passing of this bill; and without that exigency the house would not be justified in passing it. It was fallacious, to say that this measure was levelled equally against the Orange Societies as against the Catholic Association. The Orange Societies were held together by ties much stronger than their hatred to Catholics; and the power they found themselves in possession of was a much firmer bond of union than any oaths by which they might bind themselves. If it were really the intention of the legislature to put down that society, and the spirit of party of which it was the main cause, the ready and the only means of effecting that intention would be, to close all those offices to which the Catholics were by law ineligible, against Orangemen also, and to make the tests of eligibility to all candidates for any office, that they should belong to no secret societies, either of one sect or the other. He was not the advocate of the Catholic Association, but he must say he thought it was too hard to treat the debates of that body with the severity which had been applied to them, and to scan with such unusual rigour the expressions which had been used by the natives of a country not famous for that cautious prudence which distinguished other parts of the kingdom. The calculation which had been made of the amount of the rent, which the *rt. hon. gent.* (Mr. Peel) had represented as 50,000*l.* a year, was extravagantly exaggerated. The fact was, that the rent was dying a natural death when the Government announced its intention of checking its future progress. The consequence was, that the next weekly collection was double the amount of that preceding this announcement. He had been informed, by a friend of his, that not one shilling had been contributed to the rent in his immediate neighbourhood, nor in the greater part of the same county. He was satisfied that the only object of the people who contributed to this fund was to ensure that fair administration of law, which had been heretofore in so many instances denied to them. It was too notoriously true, that in Ireland there was one law for the rich and another for the poor; and he was persuaded, that if the Catholic peasant could be convinced that justice would be meted out to him with impartiality, he would refuse to part with any portion of his miserable pittance to swell the amount of this rent. Another cause of discontent was the small number of Catholics in public employment. Of two thousand offices in Ireland to which they were eligible, they only held one hundred; in other words, the

proportion was twenty to one, instead of being, as with reference to the preponderance of the Catholic population in point of numbers it ought to be, directly the reverse. Could we be surprised that the people of Ireland should feel a soreness at such treatment, or that they should express their feelings in somewhat unguarded language? To illustrate the manner in which justice was administered in Ireland, he would observe that a young man, who had been out shooting, happened on his return to pass the farm-yard of a Catholic in which there was a dog. For some cause or other this person shot the dog; and when the son of the farmer came out to remonstrate, he shot him also. The father then came out, and seeing his son lying dead before him, addressed the perpetrator of the crime in no very measured terms, upon which he was shot too (a laugh). For this, the person who had committed the outrage was tried and acquitted. He would add, that this story had been published repeatedly, without being contradicted. The hon. member concluded by expressing his determination to oppose the measure before the house.

Mr. *Doherty* had more than once heard it said that the Catholics of Ireland had never had so great an enemy as the Association; and the two speeches which he had last heard convinced him of the truth of that opinion. The gallant colonel who had just sat down, had invariably opposed the Catholic claims, and yet was found on the present occasion, supporting the Catholic Association. The hon. bart. (Sir N. Colthurst) had invariably supported the Catholic claims, and now came forward, to vote for putting down the Catholic Association (hear, hear). Could any doubt remain after those speeches, as to the light in which the Association was held by the friends and the enemies of the Catholic claims? To those claims he was decidedly friendly; but he must also avow, that in his opinion the Catholic Association was irreconcilable with the spirit of the constitution. The alarm which that Association had created in Ireland was deep, general, and, in his mind, just. It pervaded the whole Protestant body, and was not only felt by Orangemen, and those who opposed the Catholics, but by every sober, rational man. Any man acquainted with Ireland must know, that one of the greatest evils which had in late times beset that country, had been the existence of delegated bodies. In England, they had riotous mob-meetings; and the laws in each country were pointed against the evils peculiar to each. The Act of Charles II. was framed for the suppression of mobs in England, while laws had been passed in Ireland for putting down illegal associations. Of all the assemblies which had ever been seen in Ireland, none had yet gone the length of the Catholic Association (hear, hear). He had read the debates of the Association in the papers, which were considered its organs, and he must say, that their tendency was to excite discontent, and the plain intention of the assembly was to frighten Government into a compliance with their demands; not by argument, but by intimidation (hear, hear). Such an assembly would not be tolerated in England for one week; and if it would be dangerous in England, he begged leave to ask whether it would not be obviously far more dangerous in Ireland (hear, hear). The declarations of the

assembly were addressed to what they well knew to be the state of the people, and to that incapacity which they sedulously endeavoured to promote. One of their orators (Mr. Shiel) had declared, "that there was in Ireland an immense mass of population uniformly acting under the influence of passion, rather than of reason; men who have injuries to revenge; who are bound to the soil by no tie, cheered by no solace, and who have nothing but animal instinct to attach them to existence; who mount the scaffold with alacrity, and leap from it with a bound!" Such was their avowed language, and such the state of things on which they founded their hopes. He proceeded to say, that frequent allusions had been made to the partial administration of justice in Ireland. Now, he would say, and the experience of some years entitled him to say it, that the Catholics of Ireland enjoyed the fullest and fairest administration of justice. He affirmed, without fear of contradiction from any Irish member, that the courts of justice were equally open to the rich and the poor, without distinction of religious sentiments (hear, hear). Two years ago, a petition on the mal-administration of justice in Ireland, had been intrusted to the member for Winchelsea (Mr. Brougham). Upon that occasion the learned member said, that he was sent into the house briefless, and without a fact to sustain the charges. That his own statement might not deserve that character, he would proceed from assertion to proof. The minutes of the evidence given before the Committee appointed for inquiring into the state of Ireland, had been laid on the table of the house, and would in a few days be in the hands of the members. From this evidence he should state some points. In the first place, Mr. Blackburn, a gentleman of many years' experience, and who enjoyed a high character for intelligence and uprightness (hear, hear), had been examined. He was asked what was his opinion as to the administration of justice in Ireland. He answered, that he believed it was purely administered. The next witness was Mr. Bennet, who had been a King's counsel for 18 years, and whose experience was very extensive. He coincided entirely with Mr. Blackburn. The third witness was Mr. Justice Day. He was asked whether he believed that the people had as much confidence in the administration of justice in Ireland, as in this country—and this question was explained as not referring to the superior courts of justice, but to the local administrations, and to the juries of which they were composed. He answered, "that in his opinion justice was everywhere fairly administered in Ireland. On the circuits before him, the juries were fairly composed of Catholics and Protestants, in equal proportions. The grand juries generally contained a majority of Protestants, because the Catholic gentlemen who were eligible to serve, bore only a small proportion to the Protestants of the same class." He begged to call the attention of the gallant colonel to the latter fact, as it explained a circumstance to which he had alluded, respecting the small proportion of Catholics who held offices in Ireland. Mr. Justice Day was then asked, whether he thought that Catholics and Protestants acted impartially, and without reference to their religious sentiments. "Oh, Lord!" replied the judge, "in their capacity

of jurors, religion never enters into their minds at all" (a laugh); and he further stated, that "he never met with any mixture of religious opinion which had prejudiced the administration of justice." God grant, that after the attempts of the Association to poison the fountains of justice, no future judge might have to say that his experience has led to a different conviction. He was sure that if the administration of justice in Ireland required to be purified, it was not by such means as that Association had recourse to. A case had recently happened within his own experience, which showed the mischievous tendency of the Association. A transaction had taken place which the Association undertook to investigate; and having pronounced it to be a fit subject for an action, proceedings had, in consequence, been commenced. That action, in which the defendant was a Protestant, now stood for trial in one of the most Catholic counties of Ireland, where the proportion of Catholics to Protestants was at least ten to one. It was, therefore, more than probable that the action would be tried by a jury composed of ten Catholics to two Protestants. Let it not, too, be forgotten, that the Association had declared the defendant's conduct unjust and flagrant; and he would ask, after this, and after a Catholic prelate had said, that the Catholic, who was not with the Association, was against his religion and his country, could the jury come unbiassed to the trial? This Association was altogether an abuse. They had announced the object of their assembly to be for the purpose of petitioning; they had sat from February to July, and they had done any thing but petition. They had endeavoured assiduously to inflame the people, they had travestied the forms of this house, they had appointed a committee, had received reports, and had investigated and pronounced upon what they considered to be crimes. All that was wanted to render the parody at once complete and mischievous was, that they should levy taxes—and had they not now done so? They were told that these were voluntary contributions; but they could know little of Ireland who believed that wealth was there so redundant, as to afford any voluntary contribution. It was a tax, and was levied by the most powerful engine that could be brought to bear upon the feelings of the people—the influence of the Catholic church. This Association was in fact a Parliament. If, indeed, they said that they represented the people of Ireland, they would then fall within the provisions of the Convention Act; they said, therefore, that they virtually represented them; that they were not appointed, but adopted by the Catholics; while, in fact, they were for all mischievous purposes as much representatives as if they had been actually appointed. He, for one, would rather, if this Association must exist, that the security of election should be placed round them. The Catholic Committee was appointed in this way; but if that were not permitted, *a fortiori*, the present association ought not. But it was said, that though the Association could not be defended on legal and constitutional principles, yet they had done something which entitled them to favourable considerations—they had tranquillized Ireland. That Ireland was tranquil he knew; and he likewise knew that the Association existed; but he could not discover

any connexion between the two facts (hear, hear). In his opinion, the wise and temperate measures of the illustrious nobleman at the head of the Irish Government had won the country to tranquillity; but suppose that Emancipation should not be granted to the Catholics, would they continue to tranquillize Ireland? If they had the power of pacifying her now, they would then be able and willing to excite domestic troubles. And were the members of that body to be allowed to tell the people of Ireland, that six millions of united men could not be subdued—that they would find in every field a redoubt, in every mount a fortress, and that they would shake off their oppressors like “dew-drops from the lion’s mane?” He, however, entertained such an opinion of the good sense of the Catholics, that he was convinced, if Parliament should decide that the Association was an unconstitutional body, that they would at once submit. He knew that they possessed among them talents and abilities sufficient to enable them to foil the efforts of Parliament for a long time; but he was quite sure they would not attempt to do it. It could not be supposed that the respectable part of the Catholics—such men as Lords Kenmare and Glengall—would lend themselves to any illegal proceedings. It would be recollected that in 1793 the Irish Parliament passed a resolution for suppressing the volunteer associations. In 1793, Mr. Justice Day, who had been one of the volunteers in arms, spoke of that measure in the following terms:—“Providentially this House at last awakened from its torpor, and by a single resolution put down the Convention. The Convention was composed of many excellent men, who were not aware that they were acting illegally; but the moment they were informed of their error, by the resolution of Parliament, they dispersed.” That such might be the conduct of the Catholic Association was his earnest wish, both for the sake of the Catholics themselves, and for the tranquillity of Ireland.

Mr. *Dominick Browne* said, that whatever alarm the Association had created in this country, it had done more to advance the Catholic cause than any thing which had taken place during the last twenty years. It had been said that the Association was not consonant with the spirit of the constitution; he would not say that it was; but it was more so than the Insurrection Act, the Whiteboy Act, and the 20,000 troops kept up in Ireland (hear, hear). If this country would persist in refusing to grant to the people of Ireland their just rights, he could not feel himself justified in imposing any fresh restriction upon them. If the bill should pass, it would only have the effect of changing the shape of the danger, supposing danger to exist. He did not mean to say that the people of Ireland would be driven to rebellion; he knew, from his own observation, that the Roman Catholics, from the highest down to the meanest, relied upon the justice of Parliament; but disappointment must produce disaffection, and disaffection in Ireland would now be a more serious matter than it was twenty years ago, since which period the people had become richer and better educated. If the system of coercion should be persisted in, Parliament could not stop with a bill for putting down illegal assemblies; they must pass a perpetual Insurrection Act, and maintain an army of 100,000 men. The people of Ireland, at the present moment, were full of hope; and

it behoved the Parliament and people of this country, to take care that it should not be disappointed (hear, hear).

Mr. *W. Williams* remarked, that in his opinion, the chief cause of the present unfortunate condition of Ireland, was the religious animosity which pervaded every portion of society, and entered more or less into every transaction. It was desirable to allay that animosity, and to unite Catholics and Protestants in Christian love; to negative the motion before the house would be considered as a triumph of the Catholics, and so confirm the present irritation. On that ground, he would give his vote for the bringing in the bill, though he would not pledge himself to support it in all his details hereafter.

Mr. *R. Martin* thought that this bill must fail in its operation, and should therefore oppose it; although he was not disposed to think the Association the less dangerous, because it had tranquillized Ireland. If they could allay the angry billows, they had the power to raise them again. He would suggest that the Catholics had committed a great error in intrusting their petition to the hon. bart. (Sir F. Burdett); because, when the Catholic question was agitated last session, the hon. bart. and ten or twelve other members, walked away, and took no part in the discussion.

Mr. *Watts* believed that the diseases under which Ireland laboured, required a very different remedy from the present bill. Let the Association be put down, as it might, in name;—in spirit, not a week could elapse before it would be renewed. It was curious to see the policy of England, as regarded religious toleration, so far behind that of many other countries in Europe, her immediate neighbours. The opponents of Catholic Emancipation seemed to be standing still in point of intellect and civilization, while all the rest of the world was advancing. What was the case in Germany—what in Holland and Belgium? The people in those countries, disunited upon every other point, had no religious dissensions; because they had no religious exclusions. The present bill, like its predecessors, would place Ireland in a worse condition than that in which she stood at present.

Mr. *C. W. Wynn* was far from flattering himself that the measure now proposed, or any other, would tranquillize Ireland, unless accompanied by Emancipation; but he did not therefore agree that because the grand remedy for existing evils in Ireland could not be obtained, the house should sit still supinely, and not apply to these pressing evils, the best remedy which lay within its power. He regretted the conduct of the Association, chiefly for the mischief which it had done to the Catholic cause. But mischievous as the Association had been, they might rely that worse was yet to come. He would not dwell upon the state of exasperation into which such a body would at last provoke itself: let the house look at the effect, in the way of exasperation, which it would produce upon others. The principle upon which the Catholic Association had formed itself once recognized, what was to prevent the formation of counter-associations among the Protestants? And then would such bodies proceed coolly, and with forbearance? Or would they not go on contending from day to day with increasing exasperation—one act of quarrel or violence leading only to another still more outrageous, until, in the end, the whole country

became inflamed, and involved in the dispute? In justice—in common sense—the house had no alternative; it must either put down the Catholic Association, or repeal the laws forbidding all other Associations. The laws must be equally operative. He had always been desirous to put down the Orange Associations, not so much from a fear of the mischief which they did in themselves, as from the dread that they would lead to the formation of such bodies as the Catholic Association. In fact, the system of association was one of the great curses of Ireland. Whether it was a Catholic Association, or Peep-of-Day-Boys, Whiteboys, Defenders, Hearts of Oak—no matter the name, so long as such associations existed, prosperity in the country was hopeless. The origin of these societies was differently accounted for;—some said that they proceeded from the feebleness of the law, and the uncertainty of its administration; others that they produced that feebleness and uncertainty themselves. Perhaps it was impossible to say precisely how the fact was. Where the law was weak, and its administration uncertain, men would be driven into associations for the sake of obtaining justice: on the other hand, while such private leagues were in operation, public justice never could be done. This principle was universal. In Scotland for years after the Union, the administration of justice had been most feeble; before a jury of one clan, no man of another could have a fair trial. No longer back than 1756 an instance to this effect had occurred in the trial of one Stuart. The panel had observed, that it was the first time it had been supposed possible that a Stuart could have a fair hearing before a jury of Campbells, with a Campbell (the Duke of Argyll having gone down expressly for the occasion) sitting as the judge. With reference to the present measure, had it been an act peculiarly to put down the Catholic Association, he would never have consented to it—for he would never have consented to any law which was to make a difference between Protestant and Catholic; but he supported the present bill, as one which struck equally at societies on both sides. Hon. gent. said that the measure would be ineffectual; he hoped otherwise, and he thought that the mere expression of parliamentary opinion would have its effect. Let the house look at the acts of coercion which it had been found necessary to pass in this country. They were full of loop-holes, every one of them, by which they might be evaded; but they had succeeded, because the country had a willingness to conform itself to the desire of the legislature; nor had he a doubt that even the discussion, which had already taken place with respect to the Catholic Association, would induce many to abandon it. Those who really desired to promote the Catholic claims, would feel that, in continuing with the Association, they injured the cause which they believed they were supporting. For himself he should support Emancipation, from whatever quarter, or under whatever circumstances, it was brought forward.

Mr. Calcraft could conceive no question more important to the empire at large, than that before the house. With regard to the professions of some members of the cabinet, he would say plainly, that, so long as they held place under a Government which made the concession of Emancipation impossible, so long he should have no faith in their assurances, and should

caution both the Catholics and the country to place no faith in their assurances; for he thought, and he had no hesitation in avowing his opinion, that men who could be faithless in one point, were not very likely to be trustworthy in another. The rt. hon. gent. (Mr. Wynn) said, that he would put down this Association, because it led to counter-associations. Why, it was in itself nothing more than a counter-association, created in opposition to those Orange Societies which the rt. hon. gent. had denounced. He hoped that the Catholics of Ireland would continue united; and as long as they assembled in a legal and constitutional manner, he trusted they would continue to press their claims upon Parliament until they obtained them. He never remembered to have heard a minister demand the suppression of meetings to discuss grievances upon proof so defective as that offered by the Sec. for Ireland. Here was the country in an unexampled state of tranquillity; a society, the proceedings of which were all public; no insurrection threatened; no green-bag produced; none of the ordinary paraphernalia set out which should give weight to such a demand; and yet the House was called upon to pass a bill which forbade the Catholics from seeking to attain their rights. True it was alleged that great fears as to this Association were entertained in Ireland; but he was assured that no such apprehension existed. The timid might, perhaps, be alarmed; the designing would pretend to be so; but ministers knew that no cause for alarm existed. To talk of the Catholic Association resisting the bill was absurd; they would anticipate it. Before the measure could pass, the Association against which it pointed would have faded away, to meet again in some other form, equally suited to its purposes. But if the house thought, that by bringing in this bill, the progress of their great work would be impeded—that the concentration of their numbers would be checked, and their collections of money for general purposes prevented—they would find themselves disappointed. He then adverted to the charges against the Association; to the alleged intemperance of their discussions, and particularly to the phrase—“By the hate you bear to Orangemen!” The words had no such tendency as that sought to be cast upon them. The hatred alluded to, was not the hatred of Orangemen personally, but hatred of a system of bigotry, and misrule, which had plundered them, crushed them, and trampled on them for centuries. It was in the name of their hatred to this system, that they were adjured to peace and good order, from joining illegal societies, from associating with Whiteboys, or any other boys (laughter). An hon. gent. said, “What will you do? Would you let this Association go on?” He certainly would let it go on; and he believed that, as far as it was attended with the collection of money in one of the poorest countries in the world, however it might go on in other respects, in that respect it would soon go off. For, as to the immense sums which had already been collected, and of which the possible application gave so much alarm, what might it be supposed the total amount collected throughout Ireland was?—9,000*l*. Why, look at the Bible Societies—at the Methodist Societies—their funds were three, four, fifty times as great. He could not but wonder how Ministers, in a session which might otherwise have

been a quiet one, could have fallen into the present measure. It was suggested that this measure had arisen on the Irish side, and had been adopted in England; but he did not believe this; nothing should induce him to believe of the Marquis Wellesley, that he had recommended the present measure, uncoupled with concession. He would not go into report and rumour; but it would sometimes happen that all despatches did not suit the purpose of an administration. When that was the case, it was better to get rid of the inconvenient ones; and say to the House, "You must legislate in the dark," even although it should become necessary to plead, as the *rt. hon. Sec. for Ireland* had done, upon two facts, both of which had put his case and argument out of court. Instead of adopting this tinkering, pettifogging, little-minded mode of proceeding, they should grant Emancipation, to which, he believed, the Catholics were now fighting their way by means of an increase of property—by means of an union of sentiment—by means of an extension of information, which ultimately must secure their cause, and that, ere many years had passed.

Mr. Plunkett confessed, that he never had risen in that assembly with emotions of greater pain, nor did he ever approach any question with feelings of deeper apprehension, than he approached this. It was said that the measure now proposed was contrary to the popular principles of the constitution; and that it was intended, through a breach of those principles, to wound the Roman Catholics. The measure was denounced, by gentlemen whom he highly respected, as one likely to be attended with circumstances of the most ruinous nature. These were heavy imputations; but he must say, that down to the present moment, they rested on mere assertion—they were unsupported either by argument or proof. Coming, how ever, from persons of so much sincerity and ability, he was led almost to doubt the evidence of his senses, and to distrust the proofs which the converse of the proposition laid down by those gentlemen was capable of receiving. He trusted that it would appear to the house that the proposed measure did not interfere with the popular privileges of this country; that it did not affect the Catholic question; and he confidently trusted that none of those disastrous consequences would flow from it which some gentlemen seemed to anticipate. But, independently of this, the question rested on another ground; on one which was paramount to every other, where the safety of the State was involved—on the ground of imperious necessity (hear, hear). Before he proceeded further, he would recall the attention of the house to the real nature of the question. It had been argued on the opposite side, that this measure attacked the privileges of an association professing to support the Catholic claims; but he begged leave to say, that it attacked all illegal associations, whether arrayed on behalf of the Catholics or against them. This was not a single measure; it was adopted in consequence of a recommendation from the Throne, in reply to which they had bound themselves to take the whole state of Ireland into consideration in the course of the session—not with reference to any particular point, but with reference to all points; and amongst those, of course, the Catholic question would be included. He could not, therefore, conceive, how the sincerest friend to

Emancipation could object to the proposed measure, accompanied as it was by the declaration contained in the Speech. His hon. friend (Mr. Calcraft) wondered why such a measure had been resorted to, when it was admitted, on all hands, that Ireland was in a state of peace and prosperity. True, she had participated in the general prosperity of the empire. She had been enabled, by the wise and temperate measures of the noble lord at the head of the Irish government, to enjoy the blessings which were the offspring of internal tranquillity. The noble marquis, when sent to Ireland, found that country bordering on rebellion. By his impartiality and decision he softened down the feelings of exasperation, he liberalized the system of Irish policy, and led the way for that state of public feeling, which enabled Ireland to share in the prosperity which was then flowing over the empire. She was lying, almost a wreck on the breakers, and by nothing but his skilful management could she have been again righted, so as to have taken advantage of the auspicious tide. He could not agree in the assertion that the return of tranquillity in Ireland was attributable to the exertions of the Association. But, even if that position were true, it formed only another reason for adopting the present measure. All argument as to the measure was at an end, if the existence of so formidable a power were once admitted. If the Association could put down those who were illegally inclined—could they not raise them up again, if they thought proper? And here he would beg leave to say, that amongst the persons who were most active in effecting this restoration of tranquillity, were the Catholic priests of Ireland—not the Catholic Association, who arrogated all the merit—but the Catholic clergy. It was they—and he said it in justice to that useful and calumniated class—it was they, who had preached to the people the principles of religion and of peace. Having borne this testimony to the tranquillity of Ireland, it was proper to revert to the question, "Why, in so flattering a state of things, do you bring this measure forward?" He would answer, that, although he never remembered a period of greater prosperity in Ireland, yet he never recollected a time of so great political excitation. That alarm had been raised in the minds of many Protestants, by industrious efforts; that it had been exaggerated by interested persons, he readily admitted. But the desperate conduct of this society had tended to verify the fears that had been thus conjured up. The hon. member for Northampton had admitted that amongst the Catholic population, he had observed a more intense feeling of expectation than he ever before witnessed; and he asked, whether this was not a reason for granting the Catholic claims? He sincerely wished to grant their claims; but if they could not be granted, was the legislature not to make provision for any circumstances of danger which they might have reason to apprehend? The hon. member for Westminster appeared extremely attentive to this proposition. He would therefore repeat his question—If Catholic emancipation were not granted, were they to adopt no means of obviating the effect of the refusal? Would this refusal be submitted to, or resisted (hear, hear)? The answer to that question involved the justice of the measure then before the house. With those who contend that the Catholic question was of vital importance, and called for im-

modest adoption, he went to the full extent; but if it were put as a proposition, that its refusal should have the effect of drawing out the physical force against the Government, even to the Catholic question, with all his opinion of its importance, he would give his decided negative. He would not argue the question with such an alternative before him (hear, hear, hear); and the friends as well as the adversaries of the cause were bound to adopt the same course, if they valued the constitution. He would remind the house what the Catholic Association was. It was clear that the Association was founded upon a different principle from any of the "numerous defiances of the law" which have been wielded in that unsettled country from time to time. A number of gentlemen had, it seemed, formed themselves into a club, not merely for the purpose of forwarding the Catholic question, but "for the redress of all grievances, local or general, affecting the people of Ireland." With this view they had undertaken the great question of Parliamentary Reform—the Repeal of the Union—the question of Tithes—the Regulation of Church Property—the Administration of Justice, from the highest Court down to the Court of Conscience. Not content merely with an interference with the courts, they were resolutely bent on interfering with the adjudication of every cause which affected the Catholics, whom they styled "the people of Ireland." They had associated with them the Catholic clergy—the Catholic nobility—many of the Catholic gentry, and all the surviving delegates of 1791. They had established committees in every district, who kept up an extensive correspondence throughout the country. The Association, which at first was very small, then amounted to 3000 members. They had permanent sittings for the discussion of every question connected with Ireland. But there was also a Catholic rent; and in every parish of the two thousand five hundred into which Ireland was divided, they established twelve Catholic collectors, making at once an army of twenty thousand collectors; unarmed, he admitted, in every thing but prayer, entreaties, and influence. Having raised their army of collectors, they brought to their assistance two thousand five hundred priests, the whole ecclesiastical body of that religion; and thus provided, they went about levying contributions on the peasantry. Now this he would not hesitate to say, that an association assuming to represent the people, and in that capacity to bring about a reform in church and state, was against the spirit of the constitution. Did he deny the right of the people to meet for the purpose of promoting the redress of grievances in church and state, by discussion and petition? Most certainly not. But they had not a right to depute any persons, as a body, to obtain such redress. The moment the Catholic Association became representative, that moment they infringed upon the privileges of Parliament, and the spirit of the constitution. He must contend, that if a body of people in Ireland, stood forward as representing 6,000,000 of their fellow-subjects, such an assembly was illegal. It was not the amount of the rent; it was the principle that he complained of. The Association, through the medium of the priests, declared to the people, "We are the persons who represent the Roman Catholics, and who, in case of necessity, ought to wield the physical force." Was this to be endured? If they did

not put it down, could they answer to themselves and the people for such a dereliction of duty? If the Associators were the wisest and worthiest men that ever wielded a state, he would not allow them to exercise that species of power, unless they were subjected to the salutary control provided by the constitution. But to whom were these men accountable? By whom were they to be tried—by whom were they to be rebuked? If the Executive wielded great powers, the constitution pointed out the mode in which they were to be exercised. But this society assumed both the legislative and executive power, and rejected all the checks by which the latter was surrounded. Let the house look to the nice balance which was preserved in our popular constitution. If the House of Commons could assemble—if it could sit whenever and as long as it pleased—in a short time the whole authority of the state might be swallowed up in the representative body. But these gentlemen met when they pleased; and, in point of fact, they sat from January to December, and exercised their powers with as little temperance as an absolute monarch. Many members of that house were not aware of the formidable power—more formidable than the sword or the purse—the power of public opinion, which was exercised by this Association. They went into the relations of private life; they denounced individuals on public and private grounds, with so little moderation, that it required more courage than belonged to ordinary men to defy them. The numbers of the Association were increased in consequence, by a body of unwilling conscripts. Even persons of high rank and character had been some persuaded, and others compelled, by the terrors of public opinion, to swell their ranks, till that body which, in its outset, was viewed without jealousy, had actually met 3000 strong. There was but one other topic, to which he wished to refer—he meant their interference with the administration of justice. He could not conceive a more deadly instrument of tyranny than this. For who are the persons who interfered? They were persons claiming to represent 6,000,000 of people; claiming the right of denouncing, and of bringing to the bar of justice any individual whom they chose to accuse of having violated the rights of that people. Could the party so accused come safely to trial, when the grand inquest of the people of Ireland, with the people's money at their disposal, were his accusers? Magistrates and persons in authority must yield to such a power, or array themselves against it. Party would be opposed to party, and the courts of justice would become scenes of factious contention. Such being the state of things, was the Marquis Wellesley to be reproached for not having allowed this institution to die of its own folly? Of what materials did gentlemen believe the Protestants of Ireland were composed, if they were content with being passive spectators of such conduct? Would they not combine for self-defence? He did not believe that there was any present intention amongst the Catholics of having recourse to force. But they were not their own masters; they must obey the commands of those who professed to represent them. He would not say that it was the intent of those leaders to adopt violent measures, but if the population they commanded became irritated, however good their intentions might be, desperate men would take the lead of them, and produce a catastrophe which they did not con-

temple. They would be forced over that precipice where they now meant to stop, like a man pressed forward by millions. It was, therefore, no answer that the intentions of the Association were honest (hear, hear). But it was said, if the Association were representative, they would fall within the provisions of the Convention Act, which provided for the case of election and actual delegation. It did not, however, touch the Association, where no election or delegation took place. But if individuals assumed to act on behalf of the people, was not the principle the same, and the mischief equal? Then *salus populi*, which was truly *suprema lex*, called on them to interfere and put an end to this institution. But it was said, although the mischief were great, there was another remedy. On this subject he would state his opinion once for all. He considered Catholic Emancipation as a measure, without which all others must be ineffectual. As a claim of right and justice, it would baffle human ingenuity to furnish any argument against it. He lamented that it should be deferred a single hour; for the longer it was deferred the more difficult it would be to grant it. These sentiments he had always expressed, and he never would abandon them. But when this alternative was proposed, instead of the present measure, the question was, "Can we have it?" He thought not. Then said those who opposed the present proposition—"Because we cannot have that measure, do not put down the mischief." If there were persons who had the power to do away with the necessity for the present proceeding, and neglected the means, they were answerable for the consequences (hear, hear). He would now, with the leave of the house, endeavour to examine that question, and to meet it fairly, and would be ready to take his own share of the responsibility (hear, hear). In 1813, the Catholic question was introduced by his hon. friend Mr. Grattan, to whom the Catholics had already owed so much. His hon. friend, on that occasion, was pleased to put a value on his services to which they were not entitled, but undoubtedly he could not overrate the zeal which dictated them. The speech which he then delivered was afterwards published. Hon. members might be familiar with parts of it, for they had from time to time been quoted in that house by several. A part of it had last night been read by the hon. member for Lincoln. He did not mention this as having any objection to it; he would not even object to the whole being entered among the standing orders of the house for gentlemen to read when they pleased (a laugh). In that speech he said that it was to be lamented that the Cabinet were divided upon the Catholic question. He added, that if they could not as a body make up their minds upon it in one way or another, they were answerable to the public for the consequences of leaving such a measure as a constant source of irritation. He had also said, that as a friend to Catholic Emancipation, he could not with honour join any administration divided upon that question. This was a full and fair admission of what were his sentiments in the year 1813. Now he as frankly and distinctly declared, that he had changed that opinion (loud cheers from the Opposition—echoed back by the ministerial benches). But here the question arose, Was he justified in having made that change? Had any circumstances occurred since, which called for that change on his part? He thought there

had, and in defending himself on that ground, he could not avoid throwing some blame on the conduct of hon. members opposite. In 1813 he stated, that he did not think the support given to the question by some members of the Cabinet was much to be depended upon (a laugh). He could assure his rt. hon. friend, (Mr. Canning,) that his doubts in that respect had never any reference to him, whose sincere support could not be doubted. They had reference to the conduct of a noble friend now no more (Lord Castlereagh); in the support which that noble lord then gave to the Catholic question, he did not then believe him so sincere as he had afterwards found him. His noble friend, on that occasion, stated that he (Mr. Plunkett) was inconsistent in expressing unwillingness to act with a Cabinet divided on the question of Emancipation, as he had before acted with a ministry who were not all united on that question—that which existed when the Duke of Bedford was Lord Lieutenant of Ireland. In the Grenville Administration, it was urged by the noble lord that there were some who were decidedly opposed to the Catholic question. Lord Sidmouth was one, and Lord Ellenborough another. He did not think at the time that this argument was sufficiently conclusive to alter his opinion; but he thought that a united administration might be formed out of that side of the house with which he then acted. In making this declaration of his former sentiments, and of the change which had since taken place in them, he begged to be understood as doing so, solely in justice to his own character and motives. He did not consider himself bound to give an explanation of his conduct to any man or set of men in that house. He came in unconnected with any man or any party. There was not one of the gentlemen with whom he had formerly the honour to act, by the wisdom of whose counsels he would in all matters have been guided, except Lord Grenville. But no man—for he was pledged to none—had a right to complain of him, or to ask his motives for joining administration. But to return to the progress of the Catholic question. Through the zeal and activity of Lord Castlereagh, it obtained an extent of legislative support which, while it left no doubt of its ultimate success, removed every suspicion from his mind of the sincerity of that noble lord. As the discussion of the measure proceeded, the number of its advocates increased, and before the death of Mr. Grattan it had already gained considerably on public favour. After the decease of his lamented friend, he had the honour of introducing the measure. It was warmly supported by some of His Majesty's ministers, and though opposed by others, it passed that house, was carried to the Lords, and there, after a warm discussion, was rejected by a very inconsiderable majority. Now, when he saw those things occur, had he not a right to believe that the question could be carried by a divided administration? He had seen it pass this house, and he had seen it accidentally negated by a small majority in the other. Was not this one fair ground for the alteration of the opinion he had formed in 1813? But he had other reasons for abandoning the other side of the house. Without ceasing to sit there, and joining opposition where he could, he had had frequent occasion to dissent from their opinions. On the important question of the continuance of the war he differed from them. On the questions which arose out of the disturbances in



1819, he felt obliged to take his stand on public grounds, and differed wholly from the view which they took of the situation of the country. On the question of parliamentary reform he also differed; in short, upon almost all the cardinal points connected with the general administration of public affairs, he found that his and their opinions were wholly different. But it was not he alone who differed; the public also differed from them on many material points. Not possessing the confidence of the public on so many questions, he thought they did not contain the materials out of which a Cabinet could be formed with any prospect of carrying the question of Catholic Emancipation. He thus found, on one side, a set of men, who, though not altogether agreed, could carry that question; on the other, a party, who, though agreed, did not possess sufficient influence to carry it—and when he knew that on many leading questions he was opposed to that party, to which he had never stood pledged, where, he asked, was his inconsistency of obeying the sacred commands of his Sovereign, and taking office? He thought these reasons a sufficient justification of the course he had pursued; yet, if there should still exist any one who, directly or by implication, should impute to him that he had accepted office merely for the sake of place, and without regard to political consistency, he would appeal to the history of his life, and he would say that such an imputation would fall as an unfounded calumny (hear, hear, hear). The learned member for Winchester had said that the influence of the Catholic Association originated in a feeling on the part of the Catholics that they were deserted by their old friends. If this were intended as an allusion to his conduct, it was not borne out by the fact. He had, on four occasions, since he accepted office, received the public thanks of the Catholics for his services in their cause, accompanied with expressions of confidence in the continuance of those services. That confidence was not withdrawn even when he refused to present the petition as from the Association. In November last, when it was resolved that the Catholic petition should be committed to the hon. bart. (Sir F. Burdett), it was resolved, on the motion of Mr. Wolfe, that the Catholics, though they confided the petition to another, still relied confidently upon the continuance of his usual support. He did not think they could have placed their cause in more efficient hands than those of the hon. bart. and when the measure should be introduced, the hon. bart. might feel assured that he would not walk out of the house leaving him (the hon. bart.) in the unpleasant situation in which he (Mr. Plunkett) had been placed on a former occasion (hear, hear! from the Treasury benches). He did not blame the hon. bart. for he believed that neither in nor out of Parliament there existed a more just or consistent individual, whether viewed in the various relations of public or private life (hear, hear). The hon. bart. needed not any praise of him, but justice compelled him to say so much. He then adverted to an extract from his speech in 1813, which had been read yesterday by the learned member for Lincoln as evidence of another act of inconsistency on his part. The argument contained in it was, that it was unjust to visit on the Catholic body the errors of their advocates. Were those arguments inconsistent with the opinions he now

held? He then condemned these associations: so he did at present; but he thought now as then, that the conduct of a few individuals ought not be visited upon the whole body. But as he had made another remark at that time which would more fully explain his present meaning, he thought it a want of candour in the learned gent. not to have made any reference to that part of the speech. If he had only read the paragraph preceding that which he quoted, it would have put his present and former sentiments on this point in their proper light and shown that he was perfectly consistent. The passage omitted by the learned gent. was this:—"Sir, the conduct of the Catholics has been resorted to as an argument for abandoning the pledge of the last session. I am not an advocate of their intemperance; I am free to say that there have been some proceedings on the part of the public bodies who affect to act for them, altogether unjustifiable. Their attempts to dictate to the entire body how they are to act on each particular political occurrence—their presuming to hold an inquisition on the conduct of individuals in the exercise of their elective franchise, and putting them under the ban of their displeasure, because they vote for their private friends, and abide by their plighted engagements—all this is a degree of inquisitorial authority unexampled and insufferable; and this by persons professing themselves the advocates of unbounded freedom and unlimited toleration, at the moment when they are extending their unparalleled tyranny into the domestic arrangements of every Catholic family in the country." One would have thought, in reading this passage, that by a happy anticipation he was foreseeing at that period that which was happening at the present. The passage proceeded thus:—"Sir, I am equally disgusted with the tone of unqualified demand, and haughty rejection of all condition or accommodation so confidently announced by them; nor can I palliate the intemperance of many of their public speeches, nor the exaggeration and violence of some of their printed publications. To this tone I never wish to see the legislature yield; but as this indecent clamour is not to compel them to yield to what is unreasonable, I trust it would not influence them to withhold what is just." Now if he had wished for an opportunity of proving the consistency of his opinions as to the Catholic Association, with those he formerly held, he could not have found a better one than that with which the learned Member for Lincoln had indulged him.—One word more as to the effect of the Association. It was calculated to check the disposition of the people of this country, which he perceived was daily inclining them in favour of the Catholic claims. He differed from his rt. hon. friend (Mr. Peel) on this point. The people of England were beginning to see that the game of governing by division would no longer succeed, but that success could only be bought by conciliation. They began to be aware, that if a great deal were not done to blight the gifts which Providence had bestowed upon her, Ireland would become one of the most fertile sources of British prosperity. The idea of the separation of the two countries was idle and absurd. As a sincere and zealous friend of the Catholics, he would advise that they should leave off the high tone which they had so long used. To threaten the Legislature with their physical force, was a proof of igno-

rance; Parliament would never yield to such a threat. Let them take better grounds. Their cause had great merits, and needed no such adventitious aids. But it was said that the Association spoke the sentiments of the Irish people. So they did—so did he, and so would every man who advocated the cause of Emancipation. But beyond that, the Association did not represent their feelings; and he denied that the people of Ireland would resent its abolition. The clergy and the country gentlemen were tired of seeing their usual influence with the people taken from them by this body. Even the members of the Association would acquiesce quietly in the law which would put an end to their power. They were, many of them, sensible men, who would be aware of the inutility of opposing the will of the legislature. Mr. O'Connell himself—would be of this opinion. Mr. O'Connell was a man of great talent and acquirements, although in his political opinions somewhat wild and extravagant; nevertheless, he was persuaded that neither he, nor Lord Fingall, Lord Gormanstown, nor any other gentleman connected with the Association, would descend to any pettifoggish tricks to evade the operation of this measure. He believed that the great body of the people would regard the bill as an honourable excuse to get rid of the influence of that body (loud cheers).

Mr. Tierney wished to avail himself of the earliest opportunity of stating his opinions upon this subject. It had so happened that he had never before opened his lips in any debate on the question of Emancipation; nor should he have done so now did he not consider the present to be a crisis of great danger to the empire. The measure of Emancipation, according to the learned gent.'s admission, would render the present one wholly unnecessary; but as that could not, in his opinion, be obtained, he preferred the present to none at all. The Cabinet could not agree upon a measure of general conciliation; so, in lieu of it, they hit upon an expedient which was to have directly the contrary effect (hear, hear). Was it not strange that this Cabinet could never pull together, except when some privileges of the people were to be invaded, and that when a measure of conciliation was proposed, then nothing was agreed upon except not to agree at all (hear, hear)? He did not rise as the advocate of the Catholics: for any thing he had done for them, they owed him nothing. What he had done with respect to their claims, he did for the general benefit of the country (hear, hear). His habits and opinions were all with the Established Church, although he was not blind to its imperfections; and no man would be more zealous than himself to oppose the Catholic claims if he thought them injurious to the Church. In offering his reasons against this measure, it was unnecessary for him to go into the Catholic question. Its merits were well understood, and had more than once been recognized by majorities of that house. The dangers of a Popish pretender, and the chance of a Popish succession to the throne, such as they were, had gone by; but there was a danger of another kind, and to that he would confine himself;—it was the danger arising from the discontent of the Catholic population. In tracing it, as connected with this measure, he would advert, as far as his memory served, to the leading points of the learned gent. He should begin by observing that it was unprecedented in

the annals of Parliament, that they should legislate against a particular body, without having one fact before them that the acts of that body were wrong. In the case of this Association it was assumed throughout that all their acts were the result of bad intentions. What right had any man to make such an assumption? It might be necessary, on inquiry, to put down the Catholic Association; but he would not take that for granted on the mere statement of the learned gent. There was complaint enough against them, but no evidence. It was complained, that the Association had taken upon themselves to inquire into the Catholic grievances—into the administration of justice in the law courts—into the abuses of tithes, and other matters. Now it was quite competent to them so to do, and they who called upon the legislature to prevent them were bound to show that there was something bad at the bottom of all those things. Unless they did this, they established no ground on which to rest the present measure. He implored the house to consider that they were not dealing with a little knot of men, who might be ill-disposed but powerless; they were dealing with six millions of people; with the great body of the Irish nation. He had not very minutely followed the proceedings of the Association, but as far as he had seen accounts of them in the newspapers, he saw nothing to create an apprehension of danger. He saw a few intemperate speeches. Oh! but those were made by men who assumed the functions of an executive government; and the house were told of the pernicious effects of having prosecutions carried on by such men, of the ill temper it generated, and of the difficulty of obtaining impartial trials under such circumstances. No doubt these things sounded highly, and were likely to catch the country gentlemen; but how was this account borne out by facts? It appeared that one of the magistrates appointed to preside at these trials (Mr. Blackburn) had publicly thanked Mr. O'Gorman for the temper and humanity with which he had conducted those proceedings (hear, hear). With regard to these cases, therefore, hon. gentlemen brought no proofs of their assertions but newspaper evidence. Now, while they were about it, they might as well have given the whole newspaper testimony. But then it was said, that they purposely declined adducing evidence; and he thought they were right; for there was unquestionably a great lack of it on that head. The learned gent. had surely made use of exaggerated statements, when he alluded to the dreadful consequences that must follow upon the acts of the Association. Among other alarming assertions, he had stated that they had an army—an army, as he was pleased to call it in a parenthesis (a laugh)—of 30,000 men; armed with a leather bag in their van; and a slate to register their collections. And this army was headed by 2500 priests (laughter)! If the learned gent. meant to insinuate that these 30,000 collectors and 2500 priests applied their collections to an improper purpose; or if he meant that they collected subscriptions to a dangerous amount, why did he not speak out plainly (hear, hear)? The house would then know the real state of the case, and what to do in respect of it. But was there such a sum collected? Let the house hear that this general contribution of all Ireland amounted to 10,000*l.* (hear, hear). When the rt. hon. gent. (Mr. Goulburn) stated the de-

tail upon which he had framed this bill, he did not understand that he felt any alarm upon this subject; it would be ridiculous to suppose that he did. But if the learned gent. thought so, did he think this bill could put a stop to the collection? If he did, he was utterly mistaken. That collection was confided to the priests. Priests might be prohibited from collecting rent for the Association: but it was well known that they collected monies among their flocks for other purposes beside those of the rent; and did the rt. hon. gent. suppose that he, or any body else, could find out, if the Catholic population continued their weekly subscriptions of three-half-pence each, what became of the odd halfpenny (laughter and cheers)? He could not be so absurd. Why, then, the only difference which the bill could make, would be to convert an open contribution into a secret one. The bill would compel the Catholics to resort to secrecy in furthering what it would declare to be an illegal object. And what could be worse, more impolitic and foolish, than to compel men, who now acted in the face of day for a known object, to work in the dark—to conceal their operations for the removal of the grievances under which no man could deny they laboured, and which they would as surely attempt to get rid of? It was far from his wish to make any inflammatory observations; but he must say, that their grievances pressed heavily upon the people of Ireland, and that if these collections were so employed as to serve the great object of obtaining redress for those grievances, they were very laudably appropriated: such efforts were entitled to success, and to the good wishes of the friends of both countries. Now, that was the declared purpose of this Association. But now came the learned gent. and objected to the Association altogether; because, he said, it was contrary to "the spirit of the constitution." This was a phrase much used in that house; and particularly by gentlemen on the other side, when they brought in any measure like this bill (hear, hear). The worst of it was, that, much as was said about "the spirit of the constitution," nobody could learn what it was (a laugh). There was no getting at the definition of the words even from the speaker who used them; especially if they fell from a lawyer (a laugh). It was in vain, that you explained and inquired: he directly met you with some Act of Parliament; and there was an end of you and the spirit of the constitution too (a laugh). But what was the learned gent.'s own version of the words? Why, that for a body representing 6,000,000 of people, labouring under admitted grievances (hear, hear), to meet together for procuring redress by their own exertions, and with their own means, was contrary to the spirit of the constitution! For his own part, he thought that the Roman Catholics of Ireland were right in taking up the matter themselves. They had been driven to it, by repeated disappointment from the failure of many promises and the treachery of many friends. Why had they been led on to believe—and most honestly as regarded the learned gent. to whose exertions their cause was, beyond doubt, exceedingly indebted—why had they been led to believe that their cause was espoused by the most enlightened men in the country? Why had the learned gentleman displayed such extraordinary eloquence in their

behalf? Why did the rt. hon. Sec. for Foreign Affairs, from time to time, hold out the expectation that the day would soon arrive in which Government would give them all they asked for at its hands; and now, when that day was come, say to them, in effect—"we are in a condition to give, but you cannot have what you want, therefore go home without it (a laugh) and disperse yourselves quietly and peaceably. It is true you are cruelly disappointed, but be satisfied (a laugh) with my assurance, that you cannot now have what you want." The learned gent. too, here chimed in with "Nothing can be clearer than this; therefore go home; and if you say another word, I will put you all into gaol" (hear, hear). But the Government must boast of its conciliatory measures towards Ireland; and if language like this was in the nature of "conciliation," undoubtedly here was a very pretty specimen (a laugh). But why was it impossible to carry this question? He would ask that learned person to look back—not to 1813, nor to the circumstances under which it presented itself to Parliament in 1813; but to 1821, when the Bill which had been adverted to was carried in that house (cheers), and when, according to the learned gent.—a fact that it must be very satisfactory to the rt. hon. Sec. for Ireland to hear (a laugh)—"Ireland was a wreck upon the breakers" (loud cheers, and some expression of dissent from Mr. Plunkett). He was much mistaken: his reason must have totally failed him, if the learned gent. when speaking of Ireland, and reviewing the progress of events in that country, did not, after regarding his own handy-work since he had been in office with great complacency, declare that Ireland was then "a wreck upon the breakers" (laughter). And, indeed, he had thought at the time that the learned gent.'s neighbour, there, the Sec. for Foreign Affairs, would have to add a new stanza to his old song 'of the pilot that weathered the storm,' in compliment to this new pilot. For now he found that we are all in sunshine again; there were no more breakers; not a thought about a wreck; and the water we were sailing in was as smooth as a mill-pond (loud laughter). All this beautiful tranquillity too, was owing to the learned gent. by whom, together with the Marquis Wellesley, it had been entirely effected. But he desired to learn what they had done towards ensuring the peace of Ireland? The learned gent. had carried the Catholic claims through that house; but it was afterwards defeated in the other. It was important to look back at that majority and minority. In that house he obtained the great majority of 90 (cheers); in another house—a place which he did not feel himself at liberty to describe, at present, in any other way than by saying it was a place wherein there sat certain gentlemen who had the privilege of wearing *white sleeves* (laughter)—there was a majority of 38 against him. But of those 38 individuals, it happened that no less than 25 were adorned in the way he had mentioned. Now, was it quite impossible to believe, that if Government had sincerely backed the measure, these white sleeves might have been found in the other part of the division (a laugh)? Could any body blame the Catholics if they thought, at that time, that their triumph was completed—that without any direct assistance from the Government, but by the mere force of reason

and argument, they had, at length, attained that which would end, in the course of another year, judging by the ordinary progress of such proceedings, in the acquisition of all they had asked for (hear, hear)? Certain it was that they were again disappointed; and that in the autumn of that very year, the learned gent. took office. He imputed no motives. He was ready to believe that the learned gent. accepted office with the most honourable intentions. But he did take it; and at the same time strode over from that side of the house to the other. Why the learned gent. was made Attorney-General for Ireland, except for deserting the Catholics, he was at a loss to know. But if he had been made Attorney-General for deserting them, he might reasonably expect to be made Lord Chancellor for attacking them (laughter). He must say to the learned gent.—“It is extraordinary that you who kept to your opinion in adversity—when you sat on this side of the house, I mean (a laugh)—should not keep to it in prosperity, when you might adhere to it with effect. If, while you sat among us, you were consistent in this respect, why should you become otherwise the moment you crossed to the other side?” This seemed to be about the strangest thing in the world. But the learned gent. had informed them “that he had since changed his opinion;” and that he had changed it upon the purest and most conscientious principles, there could be no doubt, for he had told them so himself (a laugh). But, however irrefragable his motives might be, he owed a duty to others as well as himself. When he joined that administration, did he reserve this point? Did he stipulate for this vital question? Did he make his own price?—He did not mean in an offensive sense: he was speaking only of the conditions which an individual, who took with him such talent and influence as the learned gent. had done to ministers, might honourably propose and expect. Did he say to those ministers “Here I come, with my wares in this bag (a laugh). You see what I have done for Ireland on this important subject; take me with my talents and my eloquence, but secure to me the successful result of my exertions for this question (hear, hear). But the learned gent. had done nothing of all this; and he said his reason was, that no administration could be formed on the opposition side that could carry the Catholic question. Perhaps he was right; though his reason was not very complimentary: but surely he might have found members enough on that side to make up half such an administration. Pray did the learned gent. in his difficulty, ever try the experiment of forming an administration, half from that side of the house and half from the ministerial side (laughter and cheers)? Had he proposed any such experiment in 1821, when he brought the Catholic question forward? No such thing; and the reason seemed to be, that at that very time he was about to take up his quarters on the other side. He was at that moment, to use a sailor’s phrase, with his anchor a-peak for the Treasury benches (a laugh). He did not mean to quarrel with him on that account; for he confessed that at that time a sort of cloud hung over the Opposition, which was not very encouraging to old practitioners. The learned gent. said, he had never been attached to any party; but when he crossed the floor, they made him Attorney-General for Ireland: and

to make a man Attorney-General used always to be considered as attaching the individual to the party of the administration (hear, hear). But then he was not attached to a party, but only to Lord Grenville. Now he would say, that he very well remembered when the learned gent. was once as warmly attached to a noble friend of his (Mr. T.’s), as he had ever been to Lord Grenville. Some differences arose between that noble friend and Lord Grenville upon the question of the war, and the learned gent. came down to him (Mr. T.), and told him, that notwithstanding his attachment, he thought Lord Grenville had taken the most wise, and enlarged, and statesman-like view of the case, and that therefore—he should vote with his lordship. (a laugh). No blame was attributable to the learned gent. on that account. He probably foresaw that the greater number of people would take the same view as Lord Grenville; and the Grenvilles, in fact, soon came into favour. It was curious enough to mark the effect of circumstances upon the opinions of the learned gent. while he sat with the Opposition. On the question of the war he was much alarmed; the six acts put him in a state of dismay; then something else happened which threw him into an absolute panic; and then—he took a place (continued laughter). He begged to know why it was that this Catholic question should now be openly avowed by the learned gent. to be one that nobody but an insane person would imagine capable of being carried? Let the house consider the anomalous situation in which such a declaration placed it. The Sec. for Ireland brought in a bill, the penal consequences of which must seriously affect a vast body of the people of Ireland; but here was this Catholic question, which, if carried, would make that bill unnecessary. The learned gent. had said, that Emancipation would tranquillize Ireland at once. Why, then, delay? Why was not this remedial measure brought forward? “Oh,” says the Sec. for Foreign Affairs, “would you have me to break up the Government?” He would not break up the Government on any consideration; but he had every reason to believe that the measure he spoke of would have no such effect; and if it should compel some members of the Cabinet to retire, the minority of six would not be the men to turn tail (cheers and laughter). There was one noble and learned person, of great influence in that Cabinet, too, who, he felt quite sure, would not go away on that account, notwithstanding the apprehensions that some gentlemen entertained for him. The legal habits and precaution of that learned person would not desert him on such an occasion, but there would be so many hearings on the case—such rehearings, and such arguments and exceptions, that the end of these wise and prudent delays would be, according to a phrase which often occurred in the newspapers, that the noble and learned personage would say to the parties “Oh! you may mention this matter to me next Tuesday” (cheers and laughter). Let the friends of that great question be stout; and they might be assured that its enemies would be weak. He had no doubt that all the members of the Cabinet would be as reconciled to the matter, and as friendly, in the space of one week, as they were at present, if the minority of six would only do their duty as well in the Cabinet, as they did theirs who

were out of it. The question should be passed without delay. From a beneficent decree of the most illustrious personage in this kingdom in another country, it might be inferred, that when he was not fettered by his ministers, he was strongly disposed to measures of this enlightened nature. Why, it seemed from the speech of the learned gent. that it was only upon the most vital of all questions that the monarch was not advised by his ministers. He was left to pursue his own course in this momentous matter, unassisted by those counsels which were afforded under such circumstances to every other sovereign in Europe. Could that kingdom be said to be safe in which so dangerous an anomaly existed? Here was a measure that would at once restore peace to Ireland, but which party arrangements did not suffer to be so much as mooted. Let gentlemen look at the consequences of the measures they were pursuing, and not suppose that the Catholics would be satisfied with this bill. In 1821, they were required to suffer under their grievances with patience; but with that, at last, they were not satisfied; they took their affairs into their own hands, and they thought, and they thought justly, that this was their only mode of gaining ground. He lamented very much the necessity of this—he was not prepared to defend the acts of the Association, but he thought great deliberation was required before this bill was adopted; for the peace of the country might be involved in this night's determination. The Catholics were no longer what they had been. They had increased almost to the extent of the whole population; they engrossed nearly all the cotton manufactories and all the distilleries. In time, Ireland would assume a high and commanding situation. She would then obtain what she required. The only difference would be, that what Parliament might to-day grant as a boon, would be imperiously demanded, and obtained as a right to-morrow (hear, hear). If, therefore, they were neglected too long, and any evil should arise, it must not be imputed to them, so much as to that irritation which had been excited amongst them. Twenty-five thousand men might now march from one end of Ireland to the other, in spite of the army of thirty thousand rent collectors, headed by its two thousand five hundred priests. But who could say with confidence that such would always be the case? In the event of a war between this country and a Continental Power, it would be well to consider the state of Ireland. He would ask whether, in case of war, the discontent of Spain at our recognition of the independence of her colonies, might not induce her to return the obligation by acknowledging the independence of Ireland (hear, hear)? Why, he would ask, was all that risk to be incurred? Why, but because some half dozen ministers would not listen to the word—Emancipation. The learned gent. had said to-night, that he was ready to vote for Emancipation whenever the hon. bart. would propose it. He must say, that the learned gent. had found Catholic Emancipation, in all respects of fortune and honour, a very profitable concern for the last five and twenty years. All that the friends of the measure asked of him in return was, that he would now be good enough either to retire from office, or to change his opinion again (a laugh). The learned gent. might reasonably, say, gracefully, state, that he had exerted him-

self to the utmost in this cause, and in vindicating his own principles; but finding the sense of the country to be against him, he must retire. He must seriously tell the learned gent. that in the present state of affairs there was no chance of carrying the Catholic question. That object could never be carried but by a Government unanimous in its determination. Such a Government, he knew, might be formed. If the learned gent. and the other ministers who voted with him on the question, would withdraw, a new Government, he was certain, might be formed, with the full approbation of the country. It had been said that this country was never more indisposed to grant Catholic Emancipation than at present. Now, he doubted that much. He certainly saw "No Popery" chalked upon a few walls; but that was not the sense of the country. Education had extended, and with it a corresponding spirit of liberality, which might truly be said to pervade all orders. If the rt. hon. gent. to whom he had alluded, would withdraw from the Government, the Chancellor would not merely have to find one, but almost all the new ministers. He must find a new Lord Privy Seal—a President of the Council—a First Lord of the Admiralty—a Chancellor of the Exchequer—a Secretary for Foreign Affairs—a Lord Lieutenant of Ireland—an Attorney-General for Ireland—and a President of the Board of Control. He could as soon raise the dead as do all that (laughter). Then let not rt. hon. gentlemen delude themselves by saying that the measure could not be carried; for, if that were done, it could and would be carried triumphantly (loud cheering). He, therefore, would not vote for the measure now proposed; he would not vote for any such measure, unless it were preceded by Emancipation (loud and continued cheering).

The debate was further adjourned, at a quarter to two o'clock.

MONDAY, FEB. 14.—The adjourned debate being resumed,

Mr. G. Lamb said, the proposed measure still appeared to him exceedingly obscure; the most he could make out, was, that it was meant to be an enlargement of the Convention Act. That act concluded with a proviso "that nothing therein contained should prevent meetings for the redress of grievances." That salutary provision was now, he understood, for the first time, to be abandoned. A matter of deep and serious concern! For whatever intemperance of language might have been manifested by the Association, still the redress of grievances was the object of that society. Ireland was perfectly tranquil; but they were called on to prevent contingent dangers. This prophetic spirit of evil often created the mischief against which its warnings were directed. They were admonished that this Association was contrary to the spirit of the constitution; and that it would be the means of creating animosities amongst those who followed different creeds. The Attorney-General for Ireland had said, "If this Association go on, will not some disturber, some desperate adventurer, force them over that precipice which they have incautiously prepared. The answer was simple; it was time to interfere when they saw the public disturber at work. But the learned gent. had been vigilant too early: he indicted that which

was not indictable (hear, hear); and, as in the rattle-and-bottle assassination plot, he was defeated. It had been urged, as one of the best features of this measure, that it applied as well to the Orange Societies as to the Catholic Association. But was that a neutral measure which placed an association perfectly lawful, on the same level with another, the legality of which was of a very doubtful character? The latter had been denounced in that house two sessions ago: an act was passed to check its growth, but it still continued to exist. When this question of Orange Lodges was before the house, the Sec. for Ireland then stated it to be his opinion that the proper method of attacking such institutions, was by giving them temperate advice. Yet those to whom such advice was to have the effect of a powerful spell, were described, by the learned gent. on a memorable occasion, "as a gang—a faction, who wished to overturn the laws of their country, and who had insulted and outraged the representative of the Sovereign." These persons were, it seemed, to be treated simply with advice. Had this conciliatory course been pursued on the present occasion? As the rt. hon. Sec. (Goulburn) was adverse to the Catholic claims, he might think that advice from him would not be well taken. But the learned gent. might have volunteered his services. The learned gent. had boasted that he possessed the confidence of the Catholics. Did he give them any of this temperate advice? His advice came in the shape of a legal process, which was served on one of the most popular of the Catholic leaders. Where then was the supposed impartiality of treatment? Where the impartiality of this bill, when certain individuals belonging to an Orange Society, being called on to answer questions, refused, under shelter of their secret oaths, and were protected at the bar of that house? Witnesses shielding themselves from giving evidence under those secret and illegal oaths, were suffered to leave that bar unpunished. The Orange party had some reason to complain of this measure as well as the Catholics. The former might say, "We have been long countenanced by you; and although some time ago you gave us a little parliamentary hit, yet, since that, members of the Government have complimented us for our loyalty: now, however, you are going to put us down for the acts of another association, which we dislike as much as you do." But why did not the Orange Lodges complain? Because they knew that though the measure professed to be impartial, it would not be impartially executed. Then, however powerful this law might be to put down open associations, it would be utterly ineffectual to put down secret meetings, which were infinitely more dangerous. The learned gent. had asked, "To whom is this Association responsible?" To the laws. They were equally responsible to the laws, whether alone or together, in lodges, clubs or associations, as any other of his Majesty's subjects. The learned gent. objected to the permanency of this Association, to its constant meetings and its frequent discussions; and this might be a valid objection if they had power as well as permanency. But the same power existed in every debating society. They might meet when and where they pleased; and sit, if they fancied it, from January to December. The learned gent. then came to the great *graven* of the case—the collection of

the rent, against which much clamour had been raised. This collection of money was treated as a levying of taxes; but he could not see what right any person had to prevent another from collecting money for a legal purpose. He could not see any difference between this alleged levy of a tax, and the contributions to a Bible Society. It appeared, however, that great offence was taken, because the priest assisted in collecting it. He believed very few went regularly to church whose pockets were not lightened by subscribing to some beneficent project, which the clergyman recommended from the pulpit. The objects recommended on those occasions were certainly laudable, but they could not be more laudable than those which the Catholics had in view. But this voluntary contribution was spoken of as a tax; and a most extraordinary tax it was: he wished the state of this country was such as to enable the Chancellor of the Exchequer to abandon all others (a laugh): when every person was competent to say, "I'll pay my penny towards the exigencies of the state, or not, just as I like"—the idea of a tax would be stripped of all its unpleasant associations (a laugh). He did not approve of the expression "Be tranquil by the hate you bear to Orangemen;" but a single violent expression, accompanied as it was by so much good sense and good feeling, ought not to have so much importance attached to it. The Catholics wished to attain their rights by preserving tranquillity: the Association, in adjuring their countrymen to be tranquil, used an expression which they thought would be most effectual: would to God, instead of calling on them to be tranquil by the hate they bore the Orangemen, they could have adjured them by the affection they felt! They were to be tranquil because it gave them the best chance of being admitted to a share in the blessings of the constitution: that they should be put upon an equal footing would be the sweetest revenge to the Catholics, and the bitterest pill the Orangemen could swallow. This seemed to be the fair meaning of the expression, although it had been spoken of as if it had been pronounced in the spirit of *Squire Western*, when he asks—"Is not every true-born Englishman bound to hate the French like the Devil in Hell" (a laugh)? Before the session was over, he hoped some part, if not the whole, of what they claimed, would be granted to the Catholics (hear, hear); and he could not avoid indulging in the hope that some effort of Royal beneficence—or, if not, the continuance of that moderation which the Catholics had displayed, might prevent this measure from becoming the law of the land.

Mr. Dawson said, that no man who had marked the state of Ireland for the last thirty years, could support any political association in that country. With one single exception—the Convention of 1782—parties had been ruinous to Ireland. The formation of the Society of United Irishmen, in 1796 and 1797, ended in a rebellion that raged from north to south. What was the result of the Catholic Board in 1812 and 1813? Great heat and exasperation throughout the country. After such scenes as these, he should be happy to put an end to all associations. He could not but admire the consistency of those who supported a bill to put down the Orange Societies; against which nothing was proved, and who now supported an association which was, in all its fea-

most unconstitutional body. Its funds easily disposed of, in engaging a paid disseminator the pernicious principles which its members acted. The orators reared as its organs stuck at the assertion of falsehood which might exasperate the orders of the people against the interests of the country. The priests who had themselves with it, were influenced by a singular hatred against the constitution of the country, and its existing institutions. In the report, when the collections of the rent have been very successful, the people were exhorted to awake from the slumber which they had so long kept, and to act as men, and deserved to be like men. This, he thought, was sufficient. Mr. O'Connell, a few weeks after, when the rent had been more successful, he would not press the claim of arm-Catholics, lest their enemies should say they were going to make war at once. What would be the effect of this and of the peasantry, followed up by

ditionary bondsmen! know ye not would be free, himself must strike the blow?"

I had recently declared that "the legislature requires the degradation of the people—it is the asylum of intolerance and this character of the legislature animated throughout Ireland! When the Duke of Devonshire, in the House of Lords, gave his opinion on the Catholic question, and said so although his destruction had lately preached in a Catholic chapel in the Association immediately decreed as more of an assassin than the priest denounced, and that his speech was an insult to the people. The Duke of York, too, assailed by the Association, and denounced in broad terms as the enemy of Ireland. The person at the meeting in which place, wished to have the resolution passed, but this was opposed by Mr. O'Connell, that "the heir apparent ought not to be at there was once a Duke of York who ruled and his kingdom." It was in that benefits were conferred upon the people: they were either forgotten or misrepresented by the Association. In 1822, the Archbishop of Tuam had exerted himself with the most charitable assiduity to alleviate the sufferings of the people in his diocese. The Catholic clergy expressed, by a resolution in a public meeting, the gratitude they felt for the services that benevolent prelate had rendered to them and to their flocks. No Catholic Association existed then. As soon, however, as it was established, the same Catholic clergy who had not, and could not have, any real cause for bitterness of feeling against the Archbishop, passed, in November last, a resolution, in which they accused him of having introduced a party of soldiers into a church in which they were holding a public meeting, for the purpose of intimidating, or murdering, all the Catholic priests present. Mr. O'Connell had gone still further, and had given at the last meeting of the Association, a friendly hint to his adherents for getting rid of the Protestant clergy by wholesale. He alluded to the proceedings of the

Covenanters of Scotland, who, he said, did not patiently bear the attempts which were made to oppress them, and to impose upon them a form of religion to which their consciences were averse, but hewed down with the sword of the Lord the Archbishops and Bishops who tyrannized over them; and when, at length, they were overcome by the British force which was sent against them, they retired to the mountains, and having recruited their forces, they came down again and carried desolation to the dwellings of their assailants. This language, he knew, operated very powerfully on the minds of the peasantry of Ireland, whose ignorance aided their credulity, and who, he was sorry to say, were too ready to commit bloodshed upon slight provocation. The same strain of vituperation was indulged in by the Association towards the judges and all who were engaged in the administration of the law. Mr. O'Connell, in speaking of the Bench of Ireland, said "the Chancellorship of Lord Mannors and the Attorney-Generalship of Mr. Saurin had sullied the dignity and degraded the independence of the bar." He believed that those who were more ceremoniously treated—the Judges Moore, Burton, Jebb, and others—would feel more pleasure in being likened to Lord Mannors and to Mr. Saurin than in receiving the hypocritical praises of Mr. O'Connell. To say that the object of the Association was the redress of grievances, real or supposed, was wholly untrue: its object, as was evident from the conduct of its members, was to scatter calumnies, to weaken the confidence of the people in the laws, and to prepare their minds for the measures which were in contemplation. Upon a recent occasion, a Mr. Devereux and a Mr. Hamilton Rowan, had been admitted members of the Association, when the name of the latter was received with thunders of applause. Mr. Hamilton Rowan, it would be remembered, was one of the United Irishmen. He had been implicated in seditious practices in the year 1796, for which he was imprisoned. Previously to his trial he contrived to escape, and remained many years in exile. He was attainted of high treason, but being afterwards, by the lenity of the Government, allowed to return to Ireland, the best return he could make for the mercy which had been shown him was by enlisting himself as a member of an association quite as dangerous as that of the United Irishmen. The name of this convicted traitor was received with thunders of applause, in order that the recollection of the disastrous period with which that name was connected might be revived in the minds of the deluded peasantry, and help the designs of this abominable Association. Much as he objected to the practices of the Association, they would, he believed, be comparatively harmless but for the sanction which they received from the Catholic priesthood. Most of the evils under which Ireland suffered were, in his opinion, to be attributed to the influence of that priesthood (hear, hear! from the Opposition, echoed back from the ministerial side). He differed in this respect from the Attorney-General for Ireland (hear, hear! from the Opposition): the whole tenor of their conduct, for the last six or seven years, convinced him that it was their object to overthrow the Protestant Church, and to establish that of Rome in its stead (cheers). Dr. Curtis, the titular primate of Ireland, told the Archbishop of

Dublin openly, that he was an usurper—that he held his see only by suzerainty, and that he had no more real title to it than he had to the dukedom of Leeds. Dr. Doyle, another Catholic priest, in a letter to Mr. Roberts, said, that if rebellion raged in Ireland from Carrickfergus to Cape Clear, no excommunication would be fulminated by a Catholic priest. One O'Sullivan, also, a priest, saw a man murdered before his face, and refused to give evidence to the facts, alleging that if he did, his influence with his parishioners would be lessened. Mr. Duggan, the priest of Kiltrush, informed the Association that in his parish many of the farmers had promised to devote the whole amount of the corn crop to the Catholic rent, no matter whether their creditors went unpaid, or though the very wants of nature should go unsatisfied. What man but one whose mind was wholly perverted—what man possessing any thing like a sense of morality, could countenance a fraud and robbery which was committed only for the purpose of encouraging sedition? The priest of Mallow, Mr. Kelly, told his parishioners that money was the sinews of war, and exhorted them, therefore, to contribute as much as they were able to the rent, that the Association might have the sinews necessary to carry their purposes into execution as soon as they should be ripe. Was this not plain language? Did such language require any comment? The good which the Catholic priesthood might do if they were disposed to do it, was apparent from the influence which they were proved to possess over their parishioners. The evil use which they were inclined to make of that influence might be gathered from their avowed sentiments. Who was it that industriously sowed sedition throughout Ireland? Who was it that at elections added to the natural excitement of political feeling the fuel of religious animosity? It was the Catholic priesthood. They opposed every undertaking but such as had for its object the extension of their own power, and the erection of their church on the ruins of the Protestant establishment. This was their dream by night—their work by day; and this it was that made them the indefatigable allies of the Association (hear, hear). In such a state of things, it was wholly impossible that the Government could go on. The Association must be put down without delay, or the Association would put down the Government of Ireland (cheers).

Mr. *Crew* said, that this attempt to check the public feeling would be wholly ineffectual. If put down in one shape, the Association would raise its head in another; and the very attempt might stir up consequences, which, for the peace of Ireland, ought most carefully to be avoided. The Catholic interests in Ireland were not what they had been. Those interests were represented by the Association, and instead of the dissensions which had formerly existed, all classes were at present united in the attempt to recover what they knew to be their just claims. They were now no longer ignorant of their strength, they felt their grievances, and they were resolved to apply the whole of that strength in the just and lawful attempt to obtain redress.

Mr. *Spring Rice* lamented sincerely the existence of any associations, whether Orange or Catholic; and if it were proved that they were dangerous, and that the remedy proposed was an efficient one, he would be the last man

to oppose it. But where was there any evidence before the house which it could safely receive? An hon. gent. had referred to the intemperate conduct of the priesthood; but where was the proof by which he substantiated that statement? The papers produced by way of proof were the Dublin newspapers (hear, hear). The hon. gent. had observed that there were no Orange Lodges in Ireland. But in his Majesty's speech an intention was announced of treating all parties impartially. The bill, then, would have to cope with a phantom on one hand, while, on the other, it would act against the whole population of Ireland. The hon. gent. had quoted speeches which had been made at the Association. He could not justify those speeches; but, he was not therefore prepared to condemn the Association. He knew of no assembly, not even that in which he had the honour of standing, of which the proceedings and debates could be wholly justified. Had there never been resolutions entered on the journals of that house, which no man of common sense would attempt to justify? A resolution had been come to that two and two made five instead of four; would it be fair to conclude that all the other resolutions of the house were of a similar character? He only claimed, then, for the Association, that indulgence to which every public assembly was entitled (hear, hear). As to the alleged violence of the Association, it should be remembered that the two parties were not upon equal grounds. If the party in possession of all the power and influence, should use violent language, it could not be too severely blamed; but if the excluded party, smarting under a sense of wrongs, loaded with burdens and degraded into an undeserved inferiority, should utter its complaints in language partaking of the violence of its grief, could not this be in some degree excused? But the hon. gent. had not acted fairly. In the extracts which he had made from the Dublin papers, he had shown only one side of the picture. He knew there were many speeches of a directly contrary tendency. Lord Killeen, whose character and high station would be duly weighed, had lately observed, from the chair of the Association, that "The Catholics of Ireland could not obtain their emancipation without the co-operation of their Protestant countrymen." He recommended them, therefore, to be temperate. He reminded them that their enemies were on the watch, and that any want of moderation on their part would betray them into the meshes of those enemies. He added, "Let me adjure you, not by the hatred you bear to any men, or to any class of men, for I hope you entertain no such feeling; but by your regard for your own rights—by the love you bear to your children—by the memory of your forefathers, whom neither promises nor threats could induce to forgo that faith which they prized more than their lives or happiness—by your love of liberty, and by your veneration for the constitution—by all these, I adjure you to abstain from all threats and from all violent measures. I recommend you to meet the acts of the legislature, whatever they may be, with the firmness of men, but with the submission of subjects." This speech had been received with great applause by the Association; and even if it were the only such instance, it justified him in calling upon the house not to pass the



bill upon no better authority than the statements of Irish newspapers. When a complaint was made last session that the magistracy of Ireland had not abstained from taking improper fees, it was at the time indignantly contradicted; but it had been proved in the committee above stated, that practices of the most iniquitous description had occurred under the authority of the magistracy. When it was proposed to establish petty sessions, it was said that that measure would remove all ground of complaint, because one magistrate would be brought to act as a watch upon another, and it would be impossible for any of the body to take illegal fees, or pursue other improper practices. The evidence before the committee up stairs had, however, shown that the measure had failed in that view. It had been made apparent in the same committee, that there was a general disposition on the part of the people of Ireland against the law. That was not at all surprising, considering the manner in which law was administered. By a return which had been laid upon the table, it appeared that in the course of six years, 6000 persons had been committed under the distillery laws. Those persons were of the poorer classes, upon whom those laws pressed with peculiar severity. In the examination before the commission of inquiry, a witness was asked, "Did it ever occur to you, that it would be desirable to distil fine spirit in order to supply the tables of those who have been accustomed to use *potem*" (illicit whisky)? the witness answered, that he thought not, "for, except from the dignitaries of the church, the officers of the army, and the magistrates, there was no demand for illicit spirits" (a laugh). These, then, were the persons who countenanced the violation of the law. It was impossible that the population of Ireland should contemplate such a system with respect. He did not censure in every particular the administration of law in Ireland. He paid a willing tribute to the merit of the Chief Justice of the Court of King's Bench in Ireland; although he would not travel into a neighbouring court, where buffoonery supplied the place of learning, and the pun of the day was substituted in the place of law. In the observations of the hon. under-Sec. for Ireland respecting the Archbishop of Tuam, he had not been quite explicit. The Catholics did once entertain an affectionate regard for that prelate, which they displayed on one occasion by assembling of their own accord, and getting in his harvest for him; and it was not until the Archbishop went forth on a crusade of proselytism against the Catholics, that any change in their feelings took place. It was lamentable to contrast the present with the last reign, which was, with respect to the Catholics, a reign of concession. But in the present reign, and under different circumstances, as regarded the feelings of the Sovereign, they were called upon to pass penal laws against the Catholics; for he considered the present bill in no other light than a penal law. If the rt. hon. Sec. should succeed in putting down the present mode of discussion, the Catholics would seek for other modes; so that the bill would be inoperative for good, though not for evil. It was the first measure which would bring the legislature in contact with the peasant. There was not a man who had subscribed his penny to the Association who would not feel, if the bill should pass,

that the arm of Parliament was raised against him. He therefore implored them to pause before they took a step which would weaken that feeling of respect for Parliament and the constituted authorities of the country, amongst the Irish people, which it ought to be every man's wish to strengthen (hear, hear).

Mr. Brownlow defended the hon. Sec. for Ireland, and affirmed that under the beneficent administration of the Marquis Wellesley, Ireland had passed from rebellion to tranquillity. That tranquillity was again in danger from the effects of the Catholic Association; and the present bill had originated in the necessity of restoring that authority of Government, which had been usurped by the Association. Much did he wish that the petition which he had the honour to present last session, and which he supported with such remonstrances as he thought the subject merited, had met with the attention it deserved. But the hon. Sec. for Foreign Affairs spoke of the Catholic Association as a kind of safety-valve, through which much bad feeling escaped—as a mere exuberance on the surface of the political body, which was an indication of the healthfulness of the system, and which, if left to itself, would in proper time disappear. But now the tone was changed; for a summary measure was proposed for putting down unlawful associations. And what associations? Why the Catholic Association, and the Catholic Association alone. If the measure trench upon the rights of the people, the blame ought to rest where alone it was due—on the Catholic Association. He must state, that since the meetings of the Association, the Orangemen, sworn or unsworn, and indeed the whole Protestant population, had surpassed all former examples of forbearance and moderation, as the Association in the insults and threats which they directed against them, had exceeded all former instances of violence. The Protestant gentlemen of Ireland, in the relations of parents, landlords and magistrates, followed the precepts of their religion, by studying the good of all committed to their charge, in a manner not to be surpassed by any similar body of men in any country. He contended, therefore, that the measure under discussion had been called for solely by the Catholic Association; and as children not sick, were sometimes obliged to take physic to encourage others to whom the dose was necessary, so must the whole of Ireland be subjected to the proposed law; the innocent suffer for the guilty—the just for the unjust—those whose object was to support order for those whose only object was to involve the country in confusion (hear, hear). The disturbances in Ireland had been ascribed to the exertions of the missionaries, and to the introduction of that wicked book, the Bible. He was sorry to hear such an effect attributed to a book which had ushered peace and good will into the world. He denied that the respectable gentlemen, who had proceeded to Ireland on the part of the London Hibernian Society, had been sent on an expedition of proselytism. Was it proselytizing to distribute the Bible, and in the Irish language too? Was it proselytizing to pay Catholic schoolmasters—to send round Catholic inspectors to all the schools which they had established? The fact was, that it was not against proselytizing that the Catholics were opposed, but against education of any

kind; for the Catholic faith was founded on ignorance, and they were afraid that education would extinguish it (hear, hear). With the exception of Lord Killeen's speech, he could find nothing but mischief in all that had been said, written or done, by the Association. But the discussion on the present subject should not be confined to what had been said or done by the Association. The mere fact of assembling was a contravention of the provisions of the Convention Act, and a peace officer was authorized to dissolve an assembly of the kind specified in the act, on simply finding them together. In 1811, a court of justice, in speaking of the act, declared that the exceptions which had been made in favour of the House of Commons and Convocation, much as they had been ridiculed by a learned gent. (Mr. Denman), proved the length to which the legislature intended to push the principle of the act, and that they were obliged to make those specific exceptions in consequence of the largeness of its wording. Let not the friends of the Catholic question oppose this measure. The Association had done much to retard the progress of that question (hear, hear). Such had been the bad effect produced by the Association, that Protestants who some time ago would willingly have signed petitions in favour of the Catholics, could now by no means be induced to do so. He admitted that the Association was now a most powerful body. In the beginning it was insignificant; but now it contained amongst its members, peers, and the sons of peers, and the Catholic hierarchy; and every man who had contributed one penny towards the rent, felt himself identified with its interests, and concerned for its existence (hear, hear). He stated these facts to show the urgency of immediately putting down the Association. How did the case stand? The Association said, "Give us emancipation; admit us to Parliament." He would suppose that granted;—that the Catholics were admitted to those offices which were looked upon as constituting the government of the state; for hon. gent. opposite thought that concession should not stop short of that. Then would not the Association, having the complete leadership of the people, say—"Give us the church property; we are the people of Ireland, to whom that property was originally given?" Was it consistent with common sense or experience, to suppose that the people of Ireland would be content with certain privileges being conferred on the laity, when the Church—the god of her idolatry—received nothing (hear, hear)? And if Parliament should reject the demand, the Association would reply, "We are six millions of people; one mind animates us; we can levy taxes; give us the church property, or we will shake the kingdom to the centre." That such would be the result of the continuance of the Association, he entertained no doubt. Such societies uniformly ended in mischief. Upon this point he might quote the words of the present Chief Justice of Ireland, on the occasion of the trial of the Catholic Committee in 1811:—"What man can answer for himself in going into a well-constituted political society? His first steps are good, his first motives pure. His passions warm as he proceeds; applause intoxicates him; success encourages and inflames him; he begins a patriot, and ends a revolutionist. I well remem-

ber—who can forget it?—the first national assembly of France, composed of every thing most honourable for talent and respectability in the kingdom, called together for the noblest and purest purposes. What was the result? The wise, and good, and virtuous, were put down by the factious demagogues. They were no longer masters of their will; they knew not the lengths to which they were going; they were drawn on by an increasing attraction, step by step, to the vortex in which were buried even the ruins of every establishment, religious and political, and from whose womb sprang that colossal despotism which now bestrides mankind." He thought the warning contained in that passage was as applicable to the Association, as to the Catholic Committee. He therefore earnestly hoped, that Parliament would adopt this measure (cheers).

Sir J. Mackintosh said, that he listened on all occasions with pleasure and respect to the hon. gent. who had just spoken, as well as to the hon. Under-Sec. (Dawson), considering them as the avowed and able advocates of a party which was, unfortunately, too powerful in Ireland. He should not, however, reply to them at any length, because much of what they had said was more tainted by the acrimony of Irish party, than a member of Great Britain could bring his mind to consider worthy of much importance, when he came to discuss a question of such interest to the empire as the present; although one of the observations of the last speaker was important, as openly admitting the real purpose of the bill. But he rose to employ the first moments of returning strength and health, in performing a great duty on a question of vital interest. He rose to protest against the stigma thrown on the Catholic cause, by the alleged misconduct of the Catholic body; he rose to protest against the new attempt to silence the complaints of the Catholics, without redressing their wrong; to protest against this new discouragement, added to the discouragement of centuries; to protest against a measure, which had been justly characterized as a bill to relieve the Government from the necessity of doing justice to Ireland (cheers). His zeal in behalf of the Catholics was not—as his rt. hon. friend (Mr. Tierney) had said of himself, in a speech exhibiting an unrivalled union of sense and wit, which closed the debate last night—connected with a love of their principles. He venerated the Reformation, and the principles upon which it had proceeded—freedom of opinion, and security from persecution. They who did not uphold those principles were no true Reformers. Protestants they might call themselves, but they were only Papists in Protestant clothing; men desirous of setting up small Poperies in the Protestant church, in lieu of that greater Popery which had covered all Europe with its shadow. So long as the Catholic had remained the natural ally of civil and religious tyranny, so long, had he then lived, he would have remained his mortal enemy. The same principles which would influence his vote that evening in favour of the Catholics, would have impelled him to draw his sword against them at the battle of the Boyne. The principles of civil and religious liberty, established at that glorious Revolution—revealed first to the world, in the Reformation, by men who neither understood nor sought to practise them; but since appre-

elated, acted upon and fought for, by men whose hearts were purer, or whose intellects were more enlightened—those principles formed 'a creed: in them he had lived, and in them he hoped he should die; and in support of those principles it was—never on any occasion pressing upon his mind more strongly—that he now rose in defence of the Catholic cause (cheers). It was now thirty years or more since two systems had uniformly prevailed with regard to Irish affairs. One set of gentlemen ascribed all evils to the conduct of the Catholic priesthood and laity; traced every outrage to Catholic Conventions, Committees, and Associations; and looked at those tumults, which were only symptoms of discontent, as constituting the essence of the disease. Another party, he must say, of higher bearing in the world—persons more thought of in the present age, and likely to be better known by posterity—had adopted a more comprehensive theory; they believed that the miseries which preyed upon Ireland arose from the hatred which burned between two factions, the conquerors and the conquered; and that the successful plan for restoring health would be, to negotiate a reconciliation between the parties on the basis of equal rights and privileges (hear, hear, hear). They did not think, like the other party, that the world was to be saved by coercion. They did not think it wisest to treat the outward symptoms, instead of the disease itself. Their remedy, however, was not proposed as a nostrum—not as any thing which would effect a sudden cure—but as something absolutely necessary to apply in the beginning, in order to render the body politic capable of enduring and profiting by all those circumstances which slowly contribute to the advantage of communities (hear, hear). Now if there were any truth in what the author of the Irish Union (Mr. Pitt) had uttered during his life, or in what his friends had declared for him after his death, this remedy—in fact, Catholic Emancipation, had been the only real ground for that Union. The Union with Scotland had proceeded upon a different principle—the preservation of the Protestant succession in the house of Hanover; an Union which removed the discontented parties from a Parliament in Scotland, where their power was considerable, to one in England, where it became comparatively slight. But, in Ireland, the discontents prevailed among a different class of people; the Union—except in the way of Catholic Emancipation—could not remove them—could not touch them—could neither weaken nor satisfy them a jot (hear, hear). Accordingly, Lord Grenville, a distinguished follower of Mr. Pitt, observed, in presenting a Catholic petition to the House of Lords in 1803;—"We are now called upon to perform the duty imposed upon us by the Union." He meant to speak disparagingly of no man on account of his political opinions; but he would say, that ever since the Union, all the talent and genius of the British nation, with one distinguished exception, had ranged itself on the side of Emancipation. The House of Commons had passed a bill for this purpose; and the House of Lords, in 1812, had rejected, by a majority of only one, a resolution proposed by the Marquis Wellesley, pledging itself favourably to entertain the question. The same feeling prevailed throughout the kingdom—not merely among the educated, but among those who were most likely

to be swayed by habit and prejudice. There was not a class of men in England, among whom it would now be possible to raise the yell of "No Popery." It would not now excite a mob to the most vulgar outrage (hear, hear, hear). He dwelt upon this fact, because he heard it asserted, that there was a feeling of hostility to the Catholic claims in this country. He did not believe the fact; and they did ill, believe it or not, who lightly gave it currency. Nothing could be so fatal as to teach six millions of Irish that twelve millions of English were their enemies, inclined to hate, or to despise, or to debar them of those liberties which were their own proudest boast among the nations (cheering). Were he a Catholic, he should feel much disappointment, if, in the 25th year of a union formed expressly for the sake of emancipation, under a Lord Lieutenant whom all parties agreed in praising, an Irish Attorney-General, whom it would be injustice to compare with any of his predecessors—under all circumstances of seeming advantage, he found the Government practising the old tricks, and repeating the old measures of coercion, of which a series had been opened to them in a long and alarming vista by the Irish Secretary, and engaging in an inglorious scuffle with Boards and Committees, in which there was no honour in victory, and great danger in defeat (great cheering). In the remarks which he meant to offer, he would adopt that course which had already suggested itself to the logical mind of the Attorney-General for Ireland. He proposed to inquire—first, whether the intended law would, or would not, be an infraction of popular privileges—next, whether its operation would not injure the Catholic cause—and lastly, whether, through that operation, it would not be pregnant with danger to the British empire. The first argument set up for the bill was its necessity. No man was more disposed to hold necessity "the plea of tyrants and the creed of slaves" than he was; still it might sometimes form the justification of vigour—where it existed, it was, truly enough, not only *suprema*, but *sola lex*; superseding all other powers, and exacting absolute obedience. In the first place, it was of great importance that he should distinguish between convenience and necessity; because he by no means allowed the same force to the first of those pleas as to the latter; and—for the rest—he never meant to deny that all associations, or leagues, holy or unholy, or by whatever title they called themselves, which banded great bodies of men together, separating them from, and often making them hostile to, their fellow-citizens—he did not mean to deny that all such alliances were both inconvenient and undesirable. But he would entreat of any gent. intending to address the house, to look back at the history of all such associations, and see whether they had ever existed in a sound state of any community. If they looked to the most remarkable associations, would they find one which had been destroyed by coercive laws? Would they not find that laws, prosecutions, arms, had all been employed in vain?—and that they had never died unless of a natural death, through exhaustion of the zeal which produced them, or in consequence of concession or the removal of grievances? But the question was, how far a necessity existed in this case? The grounds of necessity were commonly mischief intended; mischief done, dan-

gerous language uttered, and so forth. Now, with respect to mischief intended the Attorney-General for Ireland had distinctly acquitted the Catholic Association of any such intentions. The learned gent. had done more, for he had gone on to assign the reasons why he found it impossible to suspect any but good intentions on the part of the individuals of that body, and especially of that eloquent and celebrated person (Mr. O'Connell) who was the principal object of the proposed interposition of Parliament. The talents and fortune, the public and private situation of that gentleman—*summi honores, res familiaris amplissima, uxor probatissima, opulentiissimi liberi*—forbad any suspicion on his account. But if no mischief were intended, had any been actually done? The case for mischief done consisted in certain circumstances which had occurred in two particular trials at law; and it turned out that these prosecutions had not merely ended in acquittals, but that the judge upon the bench had thanked the counsel for the Association for his conduct of the prosecution; and that in the other, the same compliment from the same quarter had been paid to the Association itself. These were the mischiefs done, in virtue of which it was proposed to suspend the constitutional rights and privileges of six millions of persons (hear, hear). Now the rt. hon. Sec. (Peel) went beyond mischief done or even intended; and declared that if the Association continued, and especially if counter-associations among the Orangemen were formed, an end must soon be put to the administration of justice altogether; "for," he observed, "we stand in this predicament—every Catholic who subscribes to the rent will be interested in any trial in which the Association may be concerned; and so, *pro defectu juratorum*, we shall have no prosecutions; for such was the law in the case of *The King v. Dolby*." He gave the rt. hon. Sec. full credit for his argument; it had argued his bill out of the house; for, if there could be no prosecutions at the instance of the Association, where was the necessity for suppressing it? As to the charge of warm and indiscreet language, he should not follow it at length; if true, then that had only happened in the Association which must happen to all bodies of men in a similar situation. But the next charge was a heavy one; it was right that the house should well consider it. It consisted in two sentences of an address to the people of Ireland, published by the Association in 1824. He entreated hon. members to read over the whole address, with the exception of those two passages, and then to declare whether every remaining line was not written in a spirit of conciliation? He should consider it as the strongest proof he had ever met with of the blindness of party feeling, if any person could read it and entertain a different opinion. It was first objected to the address that, among other topics of dissuasion from outrage and violence, it was urged that Whiteboyism had "caused the death of many innocent persons." But could the house be ignorant that this was true? Some might blame the administration of the laws for this, but good sense must convince every man that it arose necessarily out of the employment of informers; and when this was considered, was not this very sentence a defence of the administration of the laws?—Was it not saying to every peasant—"You see

your neighbours, whom you believe innocent, suffering by the law. This seems criminal to you; but we who know better, tell you, that individuals in authority are not to be blamed for occasional events of this nature; they are the natural results of that very state of society which turbulence must always produce." Then let the house observe with what caution the address avoided the most inflammatory topics. There was not a word about the Insurrection Act (loud cheers), a subject upon which one word would be sufficient. But the Association used every pains to avoid danger or offence; and their reward was a bill to put them down, and a charge of libelling those laws which it had been their anxiety to vindicate. He could not conceive a greater distortion of plain English, than the meaning which the rt. hon. Sec. (Goulburn) had put upon this address; its intent to pacify was so obvious! Next, for the word "hate," upon which so much stress had been laid, and of which he would only say, that he had never before heard the object of a word so much exaggerated, even by those who were apt to employ terms freely in their own case, which they blamed as freely in others. He had read of a kind of critics, who illustrated the value of the doctrines they preached, by their constant violation of the practice. This "hate," which the Attorney-General for Ireland, with a dignity worthy of his intellect, had disclaimed to notice, he could hardly make up his mind to treat seriously. Dr. Johnson had said of some friend of his, that he was a good hater—he hated a Whig, and he hated a Scotchman. Now, he had the honour to appear in both those characters; and was moreover a member of an institution which the doctor himself had founded. But he had very little doubt that, if the learned person could rise again, he should be able to conquer that hatred; indeed, he should only fear that the doctor might hold him very silly if he went so far as to notice it. For who supposed that hatred to a party implied any thing like hatred to the individuals who composed that party? Suppose he should say, he hated Tories—he should only use a natural language (laughter and cheering)—because he disliked their opinions. But, if these words were taken in their strictest sense, he should receive great injustice, inasmuch as many individuals for whom he had the highest respect and love, had chosen to take the name of an enemy to the house of Hanover. It was so with the Association—it was the party they meant, not the individuals. Would an historian be blamed for saying, that the evils of Ireland proceeded from the hatred of the rival factions which divided her? And besides—take the words in their broadest sense—how long had it been immoral to excite men's passions against their vices. If there were not a tendency to counteraction in men's vices, few would boast of very material virtues. He who by rousing one ill disposition in a man's mind, found means to extinguish a worse, deserved to be applauded, not condemned. The adjuration of the Catholics, enlisted the passions on the side of peace. It was only saying in poetical terms, "By all you most hold ill, and by that vice which most naturally besets you; by your religious principles and your political privations, we adjure you to peace;" that is—"We adjure you to peace and forbearance, by those very principles which would induce you

to a contrary conduct." He now came to the admission of the hon. member (Mr. Brownlow), that this measure was levelled at the Catholics alone. The proposition of equality was false; the partiality was avowed. Now the hon. member had said—speaking of the form of the proposed measure, and complaining of its affecting the Orange party, even in appearance—that there were some fathers, who, if it were necessary to give one child in a family a dose of physic, would make all the rest take it for company. Now he was a father and a grandfather, and he would tell the hon. member what his view would be on such an occasion. He would give the sick child a dose of physic, and the others a glass of lemonade—but then he would tell the children who had the lemonade to make wry faces, which the hon. gent. did not do. And, after all, was equality possible? The bill might act upon the Association, but not against the Orange Societies; for the proceedings of the Catholics were open, and therefore could be come at; but the Orange party would evade the law as they did already, by that secrecy which formed the essence of their proceedings. Besides, the Orange party was made a party by the law, they were brought together on grand juries, in corporations, and at Quarter Sessions; with them association was a formality which might be dispensed with. They, therefore, would not be injured by the bill; they would not suffer, like the Catholics, from inactivity. Inactivity was no evil to a body in possession of monopoly. They could well afford to let things remain as they were, who had the whole sweep of the kingdom in their power, especially if the friends of freedom were compelled to be idle; but the parties were not equal (cheers), and this measure, pretending to be impartial, was most unequal and unjust. To revert to another topic, the learned Attorney-General for Ireland, unable to rely upon mischief done, and not prepared to allege any thing like mischief intended, expatiated on the danger which might result from the ascendancy of the Association over the minds of the people of Ireland. To this, then, they came at last; the learned gent. spoke not of what had been done—his case was on a *may*! Certainly the present was the first occasion on which it had been proposed to suspend the liberties of six millions of people, on a possibility. But as no cause could be shown to justify the measure, the next course was to show that it required no justification. Accordingly, the learned gent. declared that it was no encroachment on popular privileges. This was, plainly speaking, a contradiction in terms; for, to say that a limitation of an ancient right of meeting was not an encroachment, was much the same as to assert that a whole was not equal to its parts. Whether it was just or necessary to limit that right, might be a question; but not to see that limitation was innovation was impossible. He would now advert to the assertion that the proceedings of the Association were injurious to the Catholic interests. He denied the fact. But it was curious to observe that this objection came from the avowed opponents of the Catholic claims. Was not this fact sufficient to prove to the Catholics that that body was acting usefully for their interests? If it were not unnatural to be taught by an enemy, it would be the height of folly to be advised by him on that point on which he avowed his

greatest hostility (hear, hear). Next, it was said, that this Association interfered with the administration of justice. To tamper with the course of justice should, certainly, and in this country, where it is fairly administered, would, be looked upon with alarm. But were circumstances the same in Ireland? The house were engaged not long ago in an inquiry into the conduct of a sheriff of Dublin. They had there abundant proofs of the interference with the course of justice on one side. They had seen how attempts had been made, and not without success, to tamper with and bias the regular course of the law. Remembering those facts, he would ask the house, were there not some grounds for interference on the other side? Might not such interference correct the poison which had been infused into the fountain of justice, by those presumptuous assertors of the moral obligation of an oath, who had marched away from the bar of that house, triumphing over Parliament (cheers)? An evil of such magnitude on one side must give rise, however objectionable both might be, to its corrective on the other. A learned gent. (Mr. Doherty) had profusely eulogised the learned persons who administered the law in Ireland; both judges and magistrates. The purity of the administration of justice was not complained of, as far as the learned persons appointed to preside over the several courts were concerned; but what he complained of was, that attempts were made to prejudice it by the conduct of a faction supposed to be hostile to the interests of the great body of the people—that the means of doing so were exclusively in the hands of that faction, and that they were disposed to use them against a conquered and oppressed party. It was impossible to expect that one portion of men, acting on principles hostile to the feelings, wishes, and hopes of another, could be impartial towards that other, where the power lay so entirely in their own hands. That they were not so, was notorious: and in fact, the assumed resentment of the learned gent. looked like a vain attempt, by vague panegyric, to exempt men from the common failings of human nature (hear, hear). The success of the present measure would be looked upon as a victory over the Catholics by the Orange men. It was a maxim with all who had any knowledge of the world, that all men knew what best contributed to their own interests. The present measure was unanimously called for by the Orangemen. It was deprecated with equal unanimity by the Catholics. Both parties saw how their separate objects might be promoted or retarded by this bill. It was beginning a system of coercion which would be injurious as a precedent, and the more so as it would be found ineffectual. The bill, it was said, was in the spirit of the Convention Act, and it went upon the assumption that the Association, if not the chosen, were the adopted representatives of the Catholics. Now what was meant by "adopted representatives" but that the Catholic leaders had the confidence of the people, as acting against their opponents? And what would happen if they should still find the way to keep up that confidence? Would not another bill become necessary in the spirit of this, as this was thought expedient in the spirit of the Convention Act? Would it not be thought right to put down leadership on the one side, and confidence on the other? Was it to be expected that such a system could be continued?

If it did, the consequence would be, that anger would be succeeded by anger, and irritation by irritation, and the results would be similar to those of our early disputes with America. Mr. Burke had pointed out the consequences which would ensue, from attempts to coerce a feeling which could not be controlled while the evil which gave rise to it remained. Human nature had not altered since then. The causes which produced the irritation of public feeling in Ireland were not the same as those which existed in America, but they arose from circumstances which were much more difficult to deal with. A question of religion was mixed up with the present struggles of the Catholics to free themselves from the penal code. To vex a man for his religion was to oppress him for that which he held most sacred; and was ever considered as the most tyrannical indignity which the wickedness of man could exercise towards his fellow-creature. What was it which caused the union of all classes of Catholics in Ireland? A general feeling that all classes were equally the objects of penal laws. It was true, that in effect, they operated on the few of the higher ranks; but they were not the less bitterly felt by the many, for the high were excluded for the same cause as the low. The insult was common to all. An hon. member had alluded to the Bible Society, and to the reception which some of its missionaries had met with in Ireland. He honoured the intentions of that society; but he did not at all wonder at the opposition which they had met with. The Catholic priest inculcated, that the sacred word contained in the Scriptures was not to be interpreted but by the church. That doctrine was not a new one; nor was it confined to one religion. He would state what had been said on this subject, not by a rev. M'Sweeney, nor a rev. O'Shaughnessy, but by a writer who differed widely from them on theological matters, and who had said, that the Scriptures were only to be explained according to the Book of Common Prayer. The opinion was that of Chillingworth, and of the writer of the book from which he quoted it, the right rev. Dr. Marsh. If the missionaries found difficulties in Ireland, let them not ascribe them to an hostility to the Bible, but to the conduct of those from whom the missionaries were supposed to come. It was believed, and not unreasonably, that they who endeavoured to keep the Catholic excluded from his civil rights, could not come with any friendly disposition to interfere with religious belief. He had alluded to the possibility of separation between the two countries. Was this measure calculated to cement the tie between the two countries? His hopes, however, rested on the good sense of the people on whom these indignities were heaped. If he were considered worthy of advising the Catholics of Ireland, he would say to them, that to sever themselves from this country would be the beginning of a worse system than any they had yet experienced; it would be the last day of England's greatness, but it would be Ireland's ruin. He trusted that no feeling of the kind could be entertained by the people of Ireland, though such measures as this were not ill calculated to excite them. The proposed bill he viewed as a cruel addition to the penal code. It was a part of the prison-dress—a remnant of the fetters which were still suffered to gall that country (hear, hear). He would

ask how could Government think of providing for the lesser danger, and neglect to obviate the greater? How could any man imagine that an effectual remedy could be applied to the effect, while the cause was allowed to continue? For his own part, he was too far advanced in life to be influenced by any fears of witnessing the consequences of these measures; but he could not disguise his apprehension that there were, among hon. gents. opposite, some who would live to rue their effects, and repent their rashness, when too late (loud cheers).

Mr. North said, that the learned gent. instead of confining himself to the question before the house, had entrenched himself in the strong bulwark of the Catholic question, from which he scarcely deigned to look down on the actual subject of debate. Instead of following the learned gent. through the course of his extended arguments, he would go at once to that with which he had set out. The learned gent. had referred to the principles of 1688. Those principles he would not deny; but he would examine how far they were consistent with the proceedings of the Association. According to the principles of the constitution then established, the House of Commons were the sole representatives of the people. If this were so, it followed that any other assembly, however chosen or adopted, affecting to represent the people, must be unconstitutional. The Convention Act was passed for restraining the abuse of the representative principle, and that act had been violated by the Association. He cared not whether it was appointed by election before, or by adoption after its assembling; it was enough for him that it existed. If a stranger came into his house, controlled his servants and acted as if he had a right to be there, was he to be told under such circumstances, that he was not to consider why the stranger came, or how he was to be ejected, but whether he had got in through the door or the window (hear, hear)? So of the Association. It was of no consequence how it was appointed; it existed, and was acting mischievously; and the only question was, ought it to be repressed? Could any man doubt that this Association affected to represent the people? A learned member (Mr. Brougham) had drawn a distinction between actual and virtual representation; but this difference was not recognized by the constitution. It was repudiated by the Association. If Mr. O'Connell were told, that the Association was not elected—that there was no polling—no show of hands—he would answer, “I care not for the forms and shadows of election. If you doubt that we are really the representatives of the Irish Catholics, ask the priests, who support us; ask the peasantry, who contribute to our treasury; ask the peers who are enrolled amongst our members. If this were so, the only question was how to suppress it. The rent, in amount, was nothing; but considered as an index of the public mind, was of vast importance. It led the people to look up to other authorities besides the constituted authorities of the country, and to confide in a new source of power, which it at once created and fostered (hear, hear). Every man who paid rent was pledged to the Association; he was with it “for better and for worse, for richer and for poorer;” he was wedded to it for life, and inseparably linked to its fortunes. This was an intolerable evil;

but a still greater was behind. The Dublin Association was comparatively harmless; but the rent meetings, which were minor associations in the country, were pregnant with incalculable mischief. There the people were harangued from their altars by the subordinate orators and agents—men as devoid of caution as of education—not controlled, as their leaders in Dublin, by the censorship of the press and the force of public opinion. From the Association at Dublin there flowed a stream of sedition and turbulence into the country, whence it returned to the Association in a thousand currents, full of every thing mean, narrow and illiberal. Thus there was a perpetual interchange between two streams of bitter waters, which flowing, one from the Association at Dublin, and the other from the rent-meetings in the country, formed a whirlpool of prejudice, in which peace and good order were certain to suffer shipwreck. The leaders, in the first, had no control; in the latter, there was a power, before which even O'Connell trembled: those who wielded it were at once his ministers and his masters, and governed him even at the moment they professed to obey him (hear, hear). It had been observed, that in the Association there were no debates; its members were all of one mind. The observation was just; but had not been pushed to its full extent. For what was the consequence? Why, no man could obtain credit by ingenuity of reply or liveliness of debate; his only chance of distinction was by exceeding the violence of his associates; so that the only emulation excited was an emulation of intemperance. Thus, what was violent yesterday, was considered temperate to-day; and what to-day was bordering on violence, would to-morrow be too rapid for the public palate. Their objects, too, were daily varying. No man could say that he knew them (hear, hear). O'Connell himself, lord of the ascendant as he was in that Association, could not explain them. It was in the nature of these conventions to grow worse in language and design; and the Association of next year, if not suppressed, would be even a greater nuisance than now (cheers). Then as to their interference with the administration of justice, he would refer to the case of the soldier as a specimen of the mischief which their proceedings were likely to produce. If he were asked how it was that the soldier was acquitted, he would answer, because truth had a buoyancy and ascendancy in its own nature, which, when fair play was allowed, was certain to make it triumph. He would suppose, however, that the soldier had been convicted instead of acquitted. The language of hon. gentls. opposite would then have been—"Here is an instance in which guilt would have gone unpunished had it not been for the exertions of this Association." It was assumed, that there was a mal-administration of justice in Ireland, and that the Association was of use as a counterpoise to it. Now, from 1811, when he was first called to the bar, to the ignoring of the bill against Mr. O'Connell, he had always seen justice fairly administered between Catholic and Protestant. He stated that fact not as an advocate but as a witness; and his testimony, though it might not receive weight from his rank, was entitled to respect from its sincerity. Mr. Cobden, who within the two last months had

become the oracle of the Catholics, had given them sound advice upon this subject. He had desired them to make out a list of the cases in which justice had been denied, or in which oppression and violence had received a sanction from the law; and he had told them, with his usual good sense, that the people of England would pay more attention to such a list, with the names attached to it, than they would to all the declamation of their clubs. The Catholics, however, had drawn out no such list, because they could not; no such cases of successful injustice existing, except in the heated imaginations of those who had fabricated them. The learned member who spoke last, had offered no other proof of the mal-administration of justice, except the general principle that men would oppress wherever they could with impunity. But if the charge were true, would gentlemen take the balance of justice out of the hands in which it was now placed, and confide it to the Association? Supposing that tranquillity were produced by such a measure, still might not the price paid for it be much too dear? Surely it would be so, if we sacrificed the dignity and authority of the Government to obtain it. Yet this was the proposition of the other side; they would consent to a divided authority and a divided allegiance, and would put a sceptre into the hands of O'Connell, and a broken reed into those of Lord Wellesley (great cheering). He would rather see the people of Ireland existing, according to the pithy language of the common law, in the fear of God and in the peace of our Lord the King, than in the peace of the Catholic Church and the fear of the Catholic Association (cheers). He had heard with great delight, an ingenious defence of the terms "by your hatred to Orangemen;" but its sophistry was too evident to deceive. It was a defence against which good sense and reason rose up in arms. A greater moralist than the learned gent. had asked—"Could grapes grow on thorns, or figs on thistles" (hear, hear)? Could peace be produced by appealing to the malevolence of human nature; and could men be encouraged in forbearance towards their fellow-citizens by appeals to the hatred which they bore them? However this sophistry might smooth over the matter in England, it would fail with the Protestants of Ireland. He had lived long enough in that country to know what was meant by "Orange." He had heard attempts to promote education among the lower classes of Ireland, as well as other beneficial measures, condemned as Orange systems. The term had a wide signification; it resembled the old Irish mantle described by Spenser—"it was a fit bed for a rebel, a good house for an outlaw, and a neat cloak for a thief" (cheers). In the whole proceedings of the Association, there was nothing which justified suspicion and inquiry, so much as that phrase. By the Catholics it would be applied to the whole Protestant body in Ireland; by the Protestants it would be construed—"Be calm, be tranquil for the present, Catholic brethren, for such is the interest of your resentment; but cherish at your hearths and on your altars, the ashes of an extinguishable hate against every Protestant; the time has not yet arrived when you can scatter them abroad with safety to yourselves, and ruin to your enemies" (great cheering from the ministerial benches). God forbid that he

should ascribe these sentiments to every Catholic in Ireland; he knew that there were men among them who would disavow them with horror and disgust; men of as high honour and as fine feeling upon matters of religion as himself; but he regretted that they did not step forward to rescue their glorious cause from the hands which were now degrading it. The hon. member would have a civil war of vices in Ireland. Was it not a civil war of the vices which had so long been desolating Ireland;—a civil war which could not be terminated whilst phrases were used which must agitate the Protestant population. There was not a more high-spirited people in existence than the Protestants of Ireland; and the Catholics would never gain the concessions they desired, if, instead of holding out the right-hand of fellowship to their Protestant fellow-countrymen, they sought to create in their minds any feeling of alienation and alarm (cheers). It had been said that the Catholic Association was a counter-association. He denied it. If the Catholic Association had been instituted, when the Orange societies were in their strength, he might, though he questioned the policy, have admired the courage of those who entered into it; but it was instituted at a time when a command had gone forth from Government to discountenance them, and when even the arm of Government was uplifted to crush them (hear, hear); and if these societies were again rallying, which God forbid, it was in consequence of the re-action produced by the Catholic Association (cheers). One hon. member had admitted the existence of such re-action, but had attributed it to the Bible meetings which had recently taken place in Ireland. He had himself witnessed some of these meetings, and till they were broken up by the spirit of faction, a more gratifying spectacle could not be exhibited, as the people in every quarter displayed the greatest anxiety to obtain information about them. The agitation which now distracted Ireland could not be attributed to those meetings by any man who recollected the assertion of the learned gent. that free discussion on religious subjects was the right of every man, established at the reformation. But it was said that this agitation should be tranquillized by the concession of the Catholic claims. He, however, would put down the Association first, and leave Catholic Emancipation to come after it (hear, hear). He had been told that this law would be evaded; he thought better of the loyalty, better of the good sense, better, he would say, of the policy which distinguished the majority of the Catholic leaders; for if there was one way more than another by which they could heap coals of fire on the heads of their opponents, it would be by exhibiting coolness, forbearance and moderation under the law. By so doing they would win the hearts of the people of England, and would thus merit and obtain that success which no man wished them more cordially than he did (cheers). He supported this measure, therefore, because it was in accordance with the spirit of the constitution (roars of hear, hear, from the Opposition, continued for some minutes)—because it was congenial to that part of the constitution which made that house the sole representative of the people (cheers from the ministerial benches)—and because it was calculated to uphold the authority of the law, the dignity of the Government, and, above

all, the peace and prosperity of Ireland (great cheering).

Dr. Lushington had heard the speech of the member for Londonderry (Mr. Dawson), not only with feelings of reprobation, but of dismay. In the sweeping condemnation which he had passed upon the Catholics of Ireland, he had uttered a libel upon the Catholic religion, and had given publicity to sentiments which were calculated to annihilate all respect for the Catholic priesthood. He would ask the House to consider what the consequences would be, when an Under-Sec. of the Home Department indulged in rancorous invectives, not against individuals, but against a whole order of men, so important as the Catholic priesthood? He denied the justice of trying any order of men—even the Association, by one or two of its isolated measures. That house, if tried by the same test; would fall under public censure; for he could select several of its acts, which no member would be found hardy enough to defend. He would illustrate this proposition by a more familiar instance; by, that of a society which was to some extent under the patronage of the Sec. for the Home Department, the University Club (a laugh). He was informed, that in the records of this club were two entries of this nature, one following the other:—“Proposed—The Memoirs of Harriette Wilson—Ordered” (loud laughter); “Proposed—a plain Bible—rejected” (roars of laughter). What the Memoirs of Harriette Wilson were, he could not say; but he had heard that many lords of Parliament (a laugh)—ay, and some hon. members of that house (hear, hear) felt an extraordinary interest in the work. Now if the character of the University Club, consisting of sages of the law and dispirited of the church, were to be tried by this isolated fact, which appeared on its own records, might it not be said that it was a society which read loose books, and rejected the Bible” (great cheering from the Opposition)? There were two associations like that now attempted to be put down, which had existed for some time unquestioned;—the dissenting Society for the Protection of Religious Liberty, which had not only a regular committee of finance, but a well-supported fund for conducting prosecutions, and the Society of Friends, who contributed to a similar fund. It was absolutely necessary that the weaker should associate against the stronger. Restore strength to the weak—remove disabilities, and these effects would cease of themselves. The learned gent. who spoke last had asserted, to the astonishment of the house, that there had been no mal-administration of justice in Ireland since 1811. What was meant, then, by the late reformation of the Irish magistracy? That reformation pre-supposed that those magistrates had been found inadequate to their duties. And yet, in the face of this fact, and of others equally striking, it was confidently maintained that the administration of justice in Ireland had been pure, unswayed, and equal to all classes. After all that had been said on the subject of the Association, by way of vindicating this Bill, the sole tangible accusation against that body, was the phrase—“By the hatred you bear to Orangemen.” But the malevolence attributed to those words had vanished in his learned friend’s interpretation, by which they were clearly shown to import “by the hostility you bear to Orange principles.” It was impossible for any unprejudiced man to



vict Ireland, and not to hold those principles in abhorrence. It was impossible to have heard the speech of the hon. member for Londonderry, and not to feel it. It was said that the principal support which the Association derived for the purposes of Catholic Emancipation was due to the efforts of the priesthood. Was that meant, to be assigned as a reason for passing this bill? If it were, he begged to ask, whether this bill was meant to go the length of suppressing the efforts of that priesthood for the attainment of the Catholic claims? He had intended to address some further observations to the house; but at that late hour he should content himself with expressing his decided opposition to the measure.

*The Chancellor of the Exchequer:* Exhausted as the house must be with the discussion that had already taken place, he yet felt some anxiety to express his sentiments on the matter, not merely from the importance of the subject, but also upon some grounds applying personally to himself. He had observed, with no ordinary satisfaction, that in what had fallen from those who had opposed the measure most warmly, little or no attempt had been made to vindicate either the existence or the acts of the Catholic Association (hear, hear). On the contrary, almost every individual who had spoken on this occasion, had studiously abstained from that line of defence. The whole gist of the objections upon which they had opposed the bill, had been simply, that there was another remedy, which would render the measure unnecessary (hear, hear); that the whole mischief arose from the misconduct of the administration and more particularly of that part who were favourable to the Catholic claims, but who did not think proper, at present, to bring forward that remedial measure (cheers from the Opposition). Now as he felt himself to be in this situation—in the situation of those who were charged with this heavy responsibility; and as he should be deeply afflicted if he thought—humble individual as he was—that any part of the miseries of Ireland could be justly attributed to any act of his, he felt anxious to advert to this part of the question. Gentlemen should recollect the circumstances under which the present Government was formed. The administration which preceded it, Mr. Perceval's, had opposed the Catholic claims as a Government question. There might be differences of opinion among the members of that Government as to the grounds of their opposition; some opposing it on principle—others on present expediency; but, as a Government, they opposed the measure. On the death of Mr. Perceval, the House of Commons, disinclined to support a Government systematically opposed to the Catholic question, carried up an address to the Crown, praying that an administration might be formed, deserving the public confidence. Various negotiations were entered into for the attainment of that object, which failed, as he thought, through a blunder of those who supported the measure of Emancipation; for after two attempts to form a Government which should carry it, one was at last organized, in which it was agreed that the question should not be carried (cheers from the Opposition). In making this declaration, he only meant to say, that they could not form a Government out of principles that did not exist. And therefore he contended that his colleagues, by uniting to

form a Government, were not answerable for the evil complained of in respect to the Catholic question. He would add, too, that the Government so formed, possessed the confidence of the house and the people. But then it was argued, that though this was a proper principle enough, when the Government came into office, they ought not to act upon it now. They said that the measure of Emancipation was a safe as well as a remedial course; and that Government need not hesitate to adopt it. But when it was replied, that it would, of necessity, break up the Government, they said, "No, that was the last thing they wished for" (a laugh). They used the most ingenious, and—looking to the quarter whence they came—the most unworthy sarcasms (hear, hear) in commenting upon the conduct of administration. They assumed throughout, that there were members of that Government who sacrificed their own principles and duties for the single object of remaining in office, and with a view to its emoluments (hear, hear). This unworthy sarcasm, he was conscious, applied to none of his colleagues. He believed it never would apply to the learned and noble lord who held the seals (cries of hear, hear!), nor to the First Lord of the Treasury, nor to the Sec. for Foreign Affairs. It was admitted that the present administration was doing very well, and he might add, without vanity, that the country was satisfied with it (cheering). It was equally agreed that an attempt to carry the Catholic question would break up the Government. Then should those members of administration, who supported the measure, turn round on their colleagues, who conscientiously opposed it? He should regard such a proceeding as an act of treachery, of which one effect would be to deprive the men who had done it of all public confidence, and so at once to incapacitate them for carrying the very measure they had to press, against strong opposition. The argument, therefore, between gentlemen on the other side and the Government, stood thus:—They said to Government, "For all the evils that have happened you have a remedy;" and Government, admitting they had the remedy, declared, "We shall not attempt to use it, for we think it impossible to attempt to carry the measure with any prospect of success." He must certainly say—that as far as his observation went, a strong feeling existed in the country against this measure (cries of No, no, and hear, hear!)—and he must believe that such feeling arose, in a very great degree, from the acts of the Catholic Association. It was true, the measure might pass, as it had already passed, that house. But in the other house there had always been, and would be, a large majority against it. It was powerfully opposed by another influential body—the clergy (hear, hear). This circumstance had been spoken of as matter of great reproach to the clergy, but surely the imputation was unfair. It was by no means impossible that this body might be influenced by a love for the church as a mere establishment (a laugh); but, supposing they looked upon it with higher and nobler views, it was not at all unnatural that they should contemplate with some alarm the admission of those who had been for ages so hostile to its existence, not only as an establishment, but as a faith, to political power (hear, hear); and when they remembered the influence which the Catholic priest-

hood exerted over their flocks, there was surely room for jealousy. But though he saw great difficulties at present, gentlemen were not justified in representing that his *rt. hon. friend* (Mr. Canning) despaired of the question; every body knew of the changes that had taken place, and were in constant course of taking place, in the prejudices and habits of men; nor did he see any reason to despair of a great ultimate change in that house, in the clergy and amongst the people. He ought to be the last to say that no such changes could take place. All his own early impressions—all his hereditary prejudices had been against Catholic Emancipation. He had been taught to believe that the papal faith was always connected with arbitrary power, and he had been as strongly disposed against concession as any of his *hon. friends* near him (hear, hear). He certainly had entirely changed his opinions in this respect; he avowed that he had done so—and he hoped he never should be ashamed of changing them, when he saw good grounds and sufficient reason for doing so (loud cheers). But he verily believed that such hostility existed against this question, that no administration could pass it; and he thought that the most fatal thing which could happen to the question itself, would be an abortive attempt to carry it on the part of administration: for that would throw it back half a century, and, perhaps, destroy the cause altogether. Having now endeavoured to vindicate his colleagues and himself from the aspersions cast upon them, he would advert to that part of the question which related to the Association. Gentlemen had said that it was not enough to show convenience—they must also show necessity for this bill. Had Ministers thought proper to rely upon convenience merely, they might have done so long ago: but they did not think that they should be justified in calling upon Parliament to interfere, till interference became matter of necessity. Last year, this society had not assumed its present form. Many of the acts complained of had not then taken place—they had not then interfered with the administration of justice. A learned member (Mr. Denman) thought he had fully answered his *rt. hon. friend* (Mr. Peel) by drawing a distinction between a society like the Constitutional Association prosecuting for libel, and one not interfering in a court of justice on “political” principles. But, according to that learned member, the Catholic Association interfered, because, said they, the Catholics could not otherwise get justice. Why, therefore, their interference was political (hear, hear). In fact every act of this sort was a political act; and the interference of the Catholic Association was exposed to every one of those objections which the learned gent. had, on former occasions, urged with such force against the Constitutional Association. Those objections must apply to every society that intermeddled with the administration of public justice. He had never belonged to the Constitutional or any such Association, and the reasons of the learned gent. would determine him against any society of the kind. But the learned member spoke of their prosecutions as being of no importance; he had argued largely on the acquittal of the parties; but surely he must have forgotten that the *grovemen* of the charge against the Association related to its previous proceedings. In the prosecution for murder, they assumed that murder had been committed. The consequence

was, that the man went to trial, under very unfavourable circumstances; a mode of proceeding entirely at variance with that spirit which had been so much eulogized by the learned gent. in the address of the Association. When he found such principles laid down, and actions committed entirely contradictory to them, he must entertain a very different notion of the feeling which had called them forth. Then as to the “hatred of Orangemen,” and the gloss which had been attempted to be put upon it, he utterly dissented. He could but think that the phrase implied something more than that the Catholics were not exactly partial to their oppressors (a laugh). It was not, however, from a single expression, nor from the language or conduct of an individual, be it Mr. O’Connell or Dr. Dromgoole, that he anticipated any danger; but violent language coupled with violent acts, and the avowal that the Association represented the Catholics of Ireland, augmented danger to Ireland, if such language and such acts were permitted. They were calculated to excite the greatest animosity and fear, and he laid a stress on the word *fear*, in those against whom these threats were uttered. As to the call for Emancipation as a remedy to the spirit of association, he must be permitted to doubt whether that measure would have such an effect; he was not certain that it would do more than remove the evil from one party to another. The situation of Protestant and Catholic would be reversed. The Protestants of course would continue fewer in numbers than the Catholics, and would lose their present ascendancy. Then, with their disparity of numbers, if they found the Catholics aiming, not only at political power, but at the restoration of the church property in Ireland—and he did not mean to say that it would not be natural that they should entertain such desires (hear, hear)—he thought the alarm of the Protestants would be reasonable; nor could he foresee why the spirit of association that seemed to be peculiar to the country, should not, in that case, extend itself to Protestantism, and promote counter-associations, with all the mischief that must result from them. On this account he thought Parliament would desert their duty if they allowed the Catholic Association to remain. As to the utility ascribed to the labours of that body, he quite dissented. They had been told that the administration of justice in Ireland was so bad, that the Catholics had no means of obtaining it but by means of the Association. Instances had been mentioned of discovered abuses; but how were those abuses discovered? In that house:—and by that house were they remedied. One of those evils was the choice of Sheriffs; that had been remedied. The Magistracy required revision. It had been revised. Other public bodies had been corrected. But all this was done without the aid of a Catholic Parliament in Dublin, by the old-fashioned Parliament here. That Parliament had remedied many evils which existed in Ireland, and it would remedy others. For several years had Parliament been so occupied. All admitted that the present prosperity of Ireland was the result of the policy that had been pursued towards her. Although we had not done every thing that we ought to have done, yet we had done a great deal, and we certainly did not want a Catholic Association to assist us. If they attempted to excite our fears, they would fail; for they would enlist

our pride—at least as strong as any other feeling against them. We should betray our duty to Ireland; we should render her incapable of enjoying the benefits which she had acquired, or which she might hereafter acquire, unless we made up our minds steadily and firmly to put an end to this Association, which he sincerely believed to be the bane and curse of the country (cheers).

The debate was further adjourned at a quarter past one o'clock.

**TUESDAY, FEB. 15.**—The adjourned debate being resumed,

Sir R. Wilson said that he should not have taken any part in the discussion, had it not been for an assertion repeatedly made, and strongly insisted on, last night, by the Chancellor of the Exchequer, whose candid and ingenuous character gave a peculiar importance to all that fell from him, that England was not only hostile to the Association, but that the majority of the people were opposed to the Catholic claims. This assertion made it necessary for the representatives of popular places to submit their opinions to the house, and to prevent so erroneous an idea from gaining currency. The Chancellor of the Exchequer insisted that no members on the Opposition side had ventured to assert the constitutional propriety of the Association. Nor was it his intention now to do so; but Ministers had no right to taunt them on that head, when they refused all access to the documents, upon which alone an opinion could be founded. One hon. gent. asserted that the Association interfered with the administration of justice, with vindictive and sanguinary views; and his statement had so impressed an hon. friend of his, as to determine him to vote for the bill. His hon. friend had left the house immediately after. Had he waited, he would have heard enough to prove to him that the very indictment upon which that charge was made against the Association, was the best record extant in their praise, and did honour to their humanity. It had been denied that the Association represented the Catholics, or that Mr. O'Connell held any authoritative or respectable rank in their esteem. Whence, then, did he get that influence which he was supposed by this bill to exert over his countrymen? He could not be terrible in his mere personal capacity, but only as the representative of the people's sentiments. The Association—which, he must persist in, was defensive, not aggressive—ought not to exist; it must be put down; but he protested against this measure as the means, because it would not be effectual—because it would augment the evil—because it would drive the discontents of the country into an under current of sedition and disaffection, which, by and by, swelling and emerging to the face of day, would break forth in a stream which would bear all opposition before it. The only permanent remedy was Emancipation; and was England ever in a better condition to grant a boon of this nature than at present? Let the house reflect on the repetition of those claims for the last twenty-five years—that they were the rights of six millions of people—that the laws complained of were of incredible absurdity and cruelty—that a Catholic priest for instance, was subject to the penalty of death for marrying a Protestant woman to a Catholic and that the parties must give evidence against the benefactor of their affections, on pain of three years'

imprisonment. Was this a time to perpetuate such laws as these? When they had disavowed the slavish doctrines of the Holy Alliance—when they had acknowledged the independence of South America—it was deeply to be lamented that they should adopt these measures that could only lead to internal discord, and which were wholly at variance with the rest of their recent policy. In case of war, would not measures of this nature, which estranged the hearts of the people, produce the most deplorable consequences? In that case, if the standard of rebellion were unfurled, would it be the same that was formerly raised on the mountains of Wicklow, and at Tarah-hill? The Catholic Clergy were hostile to the rebellion, because they believed it to be connected with the principles of the French revolution, and they knew that those principles were inimical to their interests. The Catholic nobility and gentry were equally adverse. But now the minds of clergy, nobility and gentry were embittered, and if the standard of rebellion were raised, who could answer for the consequence? He was not the advocate of Catholic dominion. He saw, with terror, the abuse of Catholic power in Spain, in France, and in Belgium. In France, a ferocious and abominable law had recently been proposed (the law of sacrilege)—as if the deity were a demon who delighted in sanguinary punishments. In Belgium, efforts of an arbitrary and bigotted nature had been made; but they had a king there whose wisdom was likely to counteract the evil. In this country, with an Established Church, intimately connected with the state—with an immense body of Dissenters—and, above all, with a free press—what was there to be feared from the Catholics? He was not fighting the Catholic battle, but his own—the battle of all the Dissenters, of civil and religious liberty. He disliked the term Catholic Emancipation; it was too narrow a phrase; he would repeal the disabilities of all Dissenters, of whatever denomination. Those, therefore, who advocated that measure, were not fighting a partial battle, and ought to receive the support of every friend to religious freedom. He was not peculiar in this opinion; it was a common one, at least on the other side. Many persons opposed the emancipation of the Catholics because they were afraid it would lead to the repeal of the test acts, and they dreaded any increase of the power of the Dissenters, whose civil and political, more than their religious opinions, they held in terror (hear, hear). As opposed to such opinions, he would resist this bill. In doing so he was sure he spoke the sense of his constituents, but even if it were otherwise, by a manly exposition of his sentiments he could not but conciliate their esteem.

Mr. Lockhart said, it was an ancient practice in this realm to levy money by the exhortation of the priests in the church; and although it appeared to be a voluntary gift, it could not, if all the circumstances were considered, be fairly viewed in that light. The poor-rates, before the 43d of Elizabeth, were levied in this manner; and if this private levying, under the Association, were not actually compulsory, it went as near it as possible. The ignorant part of the community might think, when this rent was demanded, that they were under the same sort of compulsion as our ancestors, when they received the exhortation of the priests. But what was the character of the Association, according to their chief advocate? What had

Mr. O'Connell said? He told the world plainly, that every effort of human ingenuity would be made to evade the letter of the law, while they acted against its spirit. What was to prevent this body, so resolute in breaking the law, from pressing their views farther than they had thought proper to declare? What did they mean when they talked of the folly of paying tithes in parishes where there was no Protestant congregation or no church (hear, hear! from the Opposition)? What was this, but the indication of a desire to overturn the whole Protestant constitution of this realm?

Mr. W. J. Bankes (Cambridge Univ.) approved of the bill; but he chiefly rose for the purpose of adverting to what fell from a learned civilian, on the preceding evening, when he adverted to the University Club (a laugh). He did not stand there as the champion of that club; but when the learned civilian stated, that The Memoirs of Harriette Wilson (a laugh) were received, and a plain Bible rejected, he was in error. There was no such book as the Memoirs there, nor was any such book proposed. It was, he believed, often inquired for, and very much asked after (a laugh); but it was not there.

Mr. Grenfell said, that the conduct of the Association, in raising money for the purpose of interfering with justice, was contrary to the constitution; and if he were in the house when the introduction of the bill took place, he would vote for it, so far as it would put an end to so dangerous a practice. With respect to Catholic Emancipation, he would on all occasions advocate its cause, in and out of that house. Let not gentlemen deceive themselves. Six millions of Catholics, oppressed, insulted, and trampled upon by one million of Protestants, could not submit; and he trusted to God they never would submit. He was in the decline of life; but were he on his death-bed, he would offer up his most fervent prayer to God, that if they did resist, their resistance might be successful (much cheering).

Mr. Robertson said, they had been told that the gentry of Ireland were opposed to the collection of the rent. He believed it; but he must say, that if the landed proprietors had done their duty, and shielded their tenants from their mortal foes—the law and the proctor—the house would not now have been called on to legislate on this subject. The church of Ireland had been attacked, but, in his mind, were not accountable for the misery of the people. They did not receive one-tenth of that to which they had a right; but the people were still in the lowest stage of want and degradation! What had become of the amount of tithe which the clergy had given up? It had been put into the pockets of the country gentlemen. Did the landed gentry interfere to prevent the oppression of the tithe-proctor? No. The unfortunate peasant was suffered to be dragged to prison, and this was one great cause of the collection of the Catholic rent. It was gathered to enable the poor to procure justice, since the country gentleman neglected his duty, and did not choose to interfere when he saw acts of oppression committed. The blame rested with the gentry; and yet these were the opposers of Emancipation, the only measure which could tranquillize Ireland, or prevent its being separated from this country. Coercive measures would only irritate that country more; and for that reason he had determined to oppose, as far

as he was able, the measure now before the house (hear, hear).

Sir John Newport repeated the opinion which he had expressed on the second day of the session, that by deferring Emancipation, and by enacting penal laws against the Catholics, the Government was raising up dangers of such fearful magnitude, that no man living could calculate the consequences (hear, hear). During a rather long life he had watched with anxiety the state of his native country. It had been his lot to partake in its changing fortunes during a long series of years, and he thought that the consequences of the present measure would be infinitely more fearful than those which had resulted from any former one that he had had an opportunity of witnessing. The perils of the American struggle were as nothing when compared with that which now menaced us in Ireland. The struggle with America was a distant one; that with Ireland would be at our very doors. It was a remarkable circumstance in the history of this bill, that it was introduced into the house without a tittle of documentary evidence. The house was asked to rely upon parol evidence. But let the house examine the discrepancies which existed even in this evidence, such as it was. With regard to the Catholic priesthood, let the opinions which had been expressed by the Sec. of State, by the Attorney-General, and by the Under-Sec. of State, for Ireland, be placed in juxtaposition, and let the contrast which they displayed be remembered. While the rt. hon. Sec. attributed so much to their interference, the Attorney-General, on the other hand, said that the Catholic priests had been foully calumniated, and that they had been mainly instrumental in preserving the tranquillity of the country. The Under-Secretary, in a different strain, asserted that the evils which existed in Ireland were mainly caused by their baleful and malignant influence (hear, hear). The opinions of the rt. hon. gents. were at least contradictory (a laugh); and those opinions formed the parol evidence on which the house was called upon to legislate. He would take this opportunity of alluding to a gentleman whose name had been introduced last night—Mr. Devereux. That gentleman had lately become a member of the Association, and because he was one of the Catholic delegates in 1792, he was said to be an unfit person to join the existing society. The house ought, however, to know, that in 1793, that gentleman was one of the five persons delegated by the Catholics of Ireland to wait on his late Majesty, by whom he had been most graciously received. After this, it was surely rather too much to allege the admission of this gentleman as a charge against the Association. An hon. gent. had stated that the Association had waited until the Orange societies were put down, before they avowed themselves. This was not so: the Association was formed when the Orange party was triumphant—when they boasted that they had doubled their numbers in consequence of the attempt of the house to interfere with them—when they triumphed, not only over the Government of Ireland, but over that house; and when one of the Orange officers carried away the palm in the contest he had entered into with the Parliament itself. To show how the Association was regarded by men whose opinion deserved the highest respect, he referred to a letter from the Earl of Fingal, who said, that “he par-

ticularly regretted his present illness, because it disabled him from joining in the efforts of the Catholic Association at this important crisis." There was no man who knew his lordship, who would not bear testimony to his uniform moderation, and would not feel that the greatest respect was due to his pre-eminent virtues, which made him more worthy of respect than even his exalted rank (cheers). He would ask those who opposed the Catholics, whether they seriously wished to put down their claims by penal laws? And if they did, he would ask them when they thought it would be expedient to stop? The disproportion between the Catholic and Protestant population of Ireland was fearfully increasing. At the Union, twenty years ago, the general proportion of Catholics to Protestants was as five to two. Now it was six out of seven, and twenty years hence it would probably be eleven out of twelve. Did the enemies of emancipation mean to say they could then resist the claims which were now made? Why, then, should they defer to grant that now, which, in the result, they could not withhold? The public mind was becoming more fully informed of the real merits of the case; and however reluctantly the grant must at last be made (loud cheers).

Mr. F. Fitzgerald: With respect to the abuses in the administration of justice in Ireland, much had been done, although much remained to be done. But as to the interference of the Association with it, he thought that no honest or honourable man would not wink at it if necessary. He was present as a magistrate, at a prosecution in Clare, at the instance of the Association, and he could bear witness to the temperate manner in which Mr. O'Gorman, the counsel for the Association, behaved. He was of opinion, that the Association was justified in much that they had said and done. He was not arguing for the continuance of that body. The Protestant mind in Ireland had been thrown into a state of panic which it would be difficult to describe. He admitted, that means had been unfairly taken to increase that panic; but if so large and important a body felt such alarm at the proceedings of the Association, he asked whether it should be allowed to continue? If it were, counter-associations would be formed; the spirit of opposition would destroy all fellowship between man and man and render the country hardly worth living in. At the same time, he was bound to admit that the representations of the Association, aided by the efforts of the Catholic pastors, had had a considerable share in restoring tranquillity to Ireland. In 1880, the Catholic priests in the county which he represented afforded him material assistance in suppressing the disturbances, and he himself induced many Catholics to take upon themselves the duties of magistrates, on account of the effectual aid which they lent to the bringing about of that desirable object. He regretted that the course which the Association had pursued was likely to deprive the country of the assistance of such an influential body of men. But whilst he admitted that the Association had been instrumental to a great degree in restoring peace to Ireland, he could not forget that the present happy state of that country was also in a great measure the result of the line of conduct which had been adopted by the Irish Government and the Parliament. He felt alarm at all associations; and he could not concur in thinking that the present

measure had been called for by the Catholic Association alone. If the Orange Associations had never received the patronage which was bestowed upon them, the Catholic Association would not, if it had ever existed, have comprised nearly the whole of the Catholic population.

Lord Althorp said, that the bill being an infringement on the rights of the people, it was incumbent on those who supported it, to prove that it was not only the best, but the only mode of putting down the Association. Parliament might put down the Association, but as long as there continued to be an union of Catholic sentiments, which he should be sorry to see dissolved, means would be found in Ireland of showing to this country that there were six millions of discontented subjects there. He disliked the idea of a body associating to prosecute; but, as he understood the case, the funds of the Association were only applied on behalf of persons whose poverty precluded them from undertaking their own prosecutions. He concluded by stating, that he would vote against the bill.

Mr. W. Lamb said, that with respect to the phrase "hate of Orangemen," he deprecated the Jesuitical casuistry of his learned friend (Sir J. M'Intosh), as tending to confound all the boundaries between right and wrong. If the effect of particular expressions was to be argued, it must be considered who the parties were by whom they had been uttered. The learned gent. (Mr. O'Connell) whose words these were, was accustomed to public speaking; and from the nature of his profession, used to maintain a command of temper. Such an individual had no right to plead that warmth which sometimes led an inexperienced orator beyond his real meaning; that which he had said, be the effect of it what it might, must be assumed to have been said in earnest, and with deliberation. He went on to say, that some gent. had talked of this assembly as a safety-valve—he considered it as the furnace itself. Was it, he asked, to be endured, that any assembly should take upon itself to open a mart for the redress of grievances and to give itself, in such a character, a permanent existence? There was already too much disposition about the lower orders, even in England, to litigation. Every body knew, that if half the indictments and causes which were tried in courts were entirely omitted, it would be for the benefit of all the parties concerned in them. Then, if people would go to law, and prosecute each other needlessly, at their own expense, and even to their own ruin, where would be the end of petty ill-blood and dissension, when they were enabled to do that free of cost? Over and over again it had been argued, by those who were the advocates of liberal principles, that it was objectionable even for Parliament to order prosecutions, because it sent a man to his trial with an opinion in some sort already pronounced upon him. And here was an Association, causing people to be put upon their trials, before juries taken from among a people on the very brink of rebellion (loud cheers from the Opposition); at any rate they were smarting under restrictions likely to inspire them with any thing rather than impartial spirit or goodwill. He should support the measure.

Sir F. Burdett began by commenting on the observations of the last speaker, with regard to the obnoxious phrase in the address of the As-

sociation. With regard to that phrase, he would ask, was it common justice or reason to take a dozen of a man's words, which he had not the power of explaining; to put the worst probable construction upon them which they were capable of, and then to hold him convicted of the intent that construction imputed (hear, hear, hear)? There was no book that had ever been written—not the Bible itself, which would bear that test. Surely Englishmen would not forget the scandalous interpretation which a corrupt judge and an infamous jury had combined to put upon a portion of the writings of their great and true-hearted fellow-countryman, Mr. Sydney—a construction which no honest man could ever have imputed for a moment! In his defence, that great man had said, what he on the part of the Catholic Association, said now. "You take my words without the reasonable exposition of them: take a sentence from the Bible, and you shall find, 'there is no God;' only leave out the first member of the sentence, and the Bible itself asserts that blasphemous proposition." For Mr. O'Connell's words, he would repeat—even at the risk of being charged with Jesuitical casuistry, that they were incapable of fair interpretation, without giving him the opportunity of explaining them (cheers). But there was no necessity for any casuistry at all in the matter. The words were capable of a very honest meaning; if they looked at the only point which a fair and candid mind would keep in view—the intention of the person who had written them. Now what was the plain intention of the passage? To excite them to acts of vengeance, or retaliation? No such thing. It said—"By your hate of Orangemen, we charge you to do no act of violence! We conjure you, by every good feeling—nay, even by the worst motive which operates in your minds, to live in peace, and in the precepts of the Gospel!" It conjured them to observe those precepts in such purity as perhaps few men could lay their hands to their hearts and find themselves capable of realizing. For his part, he felt with the poet—

"An open candid foe he could not hate,  
Nor would insult the base, in low estate;  
But thriving malice, tamely to forgive—  
Tis something late to be so primitive."

Why, it was a new doctrine, that oppressors were not to be hated (cheers). Would the gentlemen who talked about Jesuitical casuistry, have had the Catholics adjured "By the reverence and respect they bore to Orangemen?" To object to the expression of such hatred, was modern doctrine—and most absolutely original! The Scottish hero, in the words of Burns, called on his countrymen

"By oppressions, woes, and pains,  
By their sons in servile chains,"

to vindicate their laws and rights (cheers), showing them every feature of their suffering in the strongest light, and exhorting them to adopt the last resource to put an end to it. But the appeal of the Association was an address in favour, not of violence, but of patience; it prayed the Catholics to prosecute a constitutional object by constitutional means; and not to allow their passions to be irritated, even by the injustice of their oppressors. And who had ever heard until now, that it was unlawful to urge a man by bad motives, as well as good ones, to good conduct? A gross misconstruction had been affixed to Mr. O'Connell's words;

one which it was neither fair nor candid in that assembly to fix upon him, without giving him an opportunity of explanation. What was there in any other part of the address—for he would not catch at a particular expression here or there—it was neither generous, nor was it necessary to criticise every little expression which came from the mouth of a man whose heart was bursting with the wrongs of his country (loud cheering)—what was there which could afford even the shadow of a subject for objection? But this would not do for the hon. member for Hertfordshire; it was enough for him that there existed a Catholic Association. He objected to all popular associations. Mr. Burke, and other writers of authority, had spoken of the advantages of public meetings, as safety-valves through which public discontent, whether well grounded or unreasonable, might escape; but the hon. member quarrelled even with this metaphor, and said that they were not the safety-valves, but rather the furnaces which excited into combustion that matter, which, in its explosion, might bring destruction upon all. "Do you not see," it was asked, "that this Association is the furnace?" He would answer, No; he saw the furnace too plainly beneath—in the wrongs of Ireland (loud cheers). This calumniated Association had so conducted itself as to become the organ of six millions of people in Ireland, including the nobility, the gentry, the clergy, and the merchants, as well as the peasantry; in fact, six-sevenths of the population. Nor was it confined to Catholics. It was worth while to look at the list of those connected with it: and, first among the Protestants appeared the name of Earl Fitzwilliam—a name which no man could pronounce without sentiments of veneration—from the generosity of his character, his courage which shrunk not in the hour of danger, and his benevolence, which exceeded even his ample fortune. Men might disagree as to the proceedings of such a society; but while he saw such names as Lord Kingal upon the Irish side of it, and Earl Fitzwilliam on the English—while it included the Catholics of England, who had ever been ranked among the most respectable portion of the British community, and who, if they were ever held in disesteem, had only fallen into it because they bore with too much patience those wrongs and grievances which some thought they should have stirred more actively to redress—was it possible that the Association should not stand, cleared of those aspersions which the advocates of the present bill thought fit to cast upon it (much cheering)? They had forgotten to remove a main objection:—take all which had been stated to be true—that the Association was all it had been said to be—even then it was not shown how the present measure was to operate as a remedy for the evil. They had tried to show every thing but this, the most important point of all. Instead of this, hon. gents. had pressed a charge concerning the interference of the Association in courts of justice, which seemed to be urged by all, in proportion to its apparent weakness. The whole sum of this argument was—"How can you, who disapproved of the Bridge-Street Association, sustain this Catholic convention without arguing against yourselves?" Now the Bridge-Street Association was a bad thing—although he must say, that he preferred it to an *ex-officio*—he thought it the lesser devil of the two (laughter). The Bridge-Street Associ-

ation had been a very impudent body, sending spies into men's houses, and inundating the country with filth and scandal, with the intent, perhaps, of putting that scandal down, when, in fact, it was an unhandy mode of stopping crimes, to encourage the commission of them for the sake of punishing them afterwards; but, with all its mischievous qualities, it was compelled to send men before a grand jury, which he preferred to the Attorney-General (a laugh). But the Catholic Association did none of these things; and as for its pre-judging cases, it was monstrously absurd to talk about it. What they did was this:—they existed in a country inhabited by an impoverished peasantry exposed to every kind of injustice; then they endeavoured to protect from the oppression of their cruel enemies—for they could not protect themselves:—but they pre-judged nothing. The course adopted by the Association was this—they received a complaint; they heard the evidence; they referred it to a committee; that committee took a legal opinion on the question, and according to that opinion, proceedings were, or were not, instituted. Now, what was there here like pre-judging (cheers)? He should rather have called this body a committee of justice, which only collected facts for the purpose of laying them before the proper tribunal for decision. When he first heard the charges against the Association on this ground, he was anxious to know whether they resorted to perjured witnesses or tampered with juries; but even in the showing of the *rt. hon. Sec.* for Ireland they had done nothing but strict justice; and when that *rt. hon. gent.* accused others of pursuing unfair means, with a view to impede the ends of justice, he (Sir Francis) accused him of the same unfairness, in merely stating so much of the case as suited his own purpose (loud cheering)—and if the house were to rely on his statements as the basis of the present bill, the evidence was inadmissible, for the *rt. hon. gent.* by his own conduct had put himself out of court as a witness (cheers). In the observations which had been made on this question on the other side, he conceived that only a small part of its merits were taken into consideration. For his own part, no words could convey his sense of its importance; it was the most important of any which had been brought under the consideration of Government since the Revolution. He would not anticipate what might be the effects of the measure, or say whether the predictions of gentlemen on the other side would be fulfilled; but as the Attorney-General for Ireland had put a question to him on a former evening, when he was paying that attention to his remarks which was due to every member addressing the house, but particularly to the learned *gent.*'s commanding eloquence, he was disposed to give him his opinion. The Attorney-General had asked whether the member for Westminster thought that if the present measure passed the house, the Catholics would submit? He could not have answered for six millions of people, acting under the feelings which this bill was calculated to produce; but looking at the former acts of the Association—at its general conduct, founded in reason and justice—at the progress which it had made—at the confidence which it inspired, and the causes which produced that confidence, he was, when the question was put to him, disposed to think that the Association would submit, and

that there would be no opposition to this measure when passed into a law. But since then, from the protraction of the debate, he was enabled to give a more decisive answer. He came down to the house that evening armed with the answer of the Association. He would say, that they would submit implicitly to the measure—that they would enter into no unseemly contest with the legislature; but they expressed an humble hope, that they might be heard at the bar of the house before it was passed into a law (cheers). This would at least be granted, when almost every thing else was denied (hear, hear); for it seemed that the Catholic question was now to be considered hopeless. The house remembered the statement of the Chancellor of the Exchequer, who accounted for his holding a place in the Cabinet, by the fact that a Government (meaning an administration) could not be formed which would agree on that question. There was a practice well understood in committees up stairs, where, when a difference arose, a party seceded, and thus knocked out the brains of the committee, and it could stand no longer (a laugh); and if gentlemen opposite would only knock out the brains of the administration, it was quite impossible they could stand a moment afterwards (much laughing). Without charging them with apostasy to the cause, it was unfortunate, that when an administration could not have been formed without the *rt. hon. gent.* opposite, the liberal part of the cabinet should succumb, and the enlightened submit to the unenlightened (cheers and laughter). Darkness covered the land instead of that light which should gladden the heart of the country (cheers). There, however, the *rt. hon. gentlemen* continued, like the two Kings of Brentford, smelling at one nosegay (a laugh); and although tied together they did not pull together, whilst in the meantime the great affairs of the nation must stand still, or make at all events the least possible progress (cheers). What had this country done to deserve so severe a fate—to merit such an infliction as this unnatural juncture of the living and the dead (cheers)? They had heard much about a serpentine line in the cabinet, but he would beg to remind the *rt. hon. gent.* that, whatever might be the line of beauty, the line of integrity was straight (much cheering). It was here as distinct and palpable as that between knowledge and ignorance—a line, upon one side of which was a little narrow policy, as to this great question—a line which kept up the conflicting opinions of the cabinet, which had produced all the conflicting statements upon which the house was called upon to vote (hear, hear). In fact he could conceive nothing like it, except that cabinet spoken of by the great genius of our country, in painting the eternal anarchy that prevailed, when all the elements of discord were at work:—

“To whom these most adhere  
He rules a moment; Chaos empire sits,  
And by decision more embroils the fray  
By which he reigns; next him, high arbiter,  
Chance governs all” (loud cheering).

Would it not appear as if the present Cabinet had sat for the picture which Milton drew, or that the passage was the recipe for the administration (cheers and laughter)? The hand of the Almighty had been necessary to draw order out of chaos; but what power was at

hand to introduce it into this chaotic Government? Blessed as we were with this united and disunited Cabinet, was it not extraordinary—if any thing could be extraordinary from such a quarter—that Ireland, being in a state of unexampled prosperity—blessed beyond precedent with peace, should now require a coercive law? The observation of Swift must still hold—“What is true every where else, is not true in Ireland.” The speeches of hon. gents. on the other side—the Speech from the Throne—had exulted in the prosperity and tranquillity of Ireland; and thence they inferred the necessity of a general coercive measure (cheers). It had been stated that no man defended the Catholic Association. No man was called on to defend what no man had attacked. The right hon. Sec. for Ireland and his remarks, had been so completely shattered by the speech of the learned member for Calne (Mr. Abercrombie), that nothing more could be said in reply to him; and for the case that remained for the Government, the rt. hon. gent. opposite (Mr. V. Fitzgerald), as if it were not shattered enough, had blown it into the air (cheers). What ground was now left? As to tampering with justice—that charge had been disposed of. He would, however, observe, that one good result had sprung from the prosecution animadverted upon by ministers—it had not only elicited the unqualified approbation of the magistrates of the conduct of the prosecutors, but it was useful as shewing the falsehood of the charges so long heaped upon the Catholic body. If a man were to state that his pocket had been picked in walking through St. Giles’s, nobody would doubt him, because a belief existed that such a circumstance was likely to happen there, although, in fact, the statement might be unfounded. It was the misfortune of the Catholics of Ireland, that any thing which was stated to their prejudice received implicit belief, because calumny had so long represented them as capable of the worst actions. What would have been thought if all the letters which had been published with the signature of Sir Harcourt Lees had been written on the other side of the question—against the whole body of Orangemen? Would not such statements have called forth some explanation from those who were attacked in them? The Catholic Association had done this; they had vindicated their whole body, and thereby rendered a public service, which called for public thanks—and for his part, he cordially thanked them. The Sec. for Foreign Affairs, and the Attorney-General for Ireland, had both, as friends to the Catholics, expressed their anxiety to get rid of the Association, as an incubus upon the Catholic body. He would ask the rt. hon. gent. where he could have dwelt to be ignorant of the sentiments of the Irish people in that respect? Was it possible that Gloucester-lodge was so secluded from the world as to be impervious to what was passing in it on so important a question? Had he dwelt in such Cimmerian darkness, as not to see that which was visible to all others in the country? If he had, let his darkness be lightened by his learned friend the Attorney-General, who had stated that the Association owed its origin to the confidence of the Irish people. Then, as to the legality of the Association:—A legal assembly might be guilty of illegal acts. Now, on which of those grounds was this Association objectionable? The Attorney-General for Ireland had never

attempted to disturb it, on the ground of its illegality; but he had tried it by the acts of one of its members, and a grand jury had declared, that there was no ground for the charge. On what ground, then, was it attempted to be put down? On the ground of its illegal tendency—on the ground that it might have an injurious effect hereafter? This was nonsense. It was a childish tampering which could not be justified. The act, it was said, would be only temporary. That might or might not be the case; and if the Catholics were not guided by a sounder judgment than the Cabinet of England, a temporary act would not be sufficient, upon the principles which the bill avowed. But he had no fear on this point. The zeal and earnestness with which the leaders of that body had endeavoured to preserve the peace of the country were notorious, and their success could not be denied. The Attorney-General for Ireland had borne testimony to the conduct of the Catholic priesthood, and to their active and useful exertions in maintaining tranquillity. With respect to the Attorney-General himself, he would say, that if he ever had a doubt of his sincerity in advocating the claims of his Catholic countrymen, it would have been removed by his manly conduct the other night. The Catholics of Ireland had not among their supporters a sincerer friend (hear, hear). It was well observed by the hon. member for Galway, who so manfully opposed the present measure, that it would have the effect of irritating the feelings of his countrymen. But then, said His Majesty’s ministers, “We will not allow ourselves to be bullied into granting the Catholic claims!” To be bullied into doing an act of justice! The language was as contemptible as the feeling which dictated it (hear, hear). Men must wonder how, upon so paltry a feeling, they could think of introducing a measure, which, from the excitation it was certain to produce among the Catholics of Ireland, might be attended with consequences which he would not mention and on which he dared not reflect. The loss of the American colonies, that disastrous event, which had plucked the brightest jewel out of the Crown of England (hear, hear), had cast an ineffaceable stain on its unspotted reputation, and had lopped off a limb from the body politic which he should ever consider to have been of inestimable value, in spite of all the political sophistries employed to reconcile the nation to its loss. Evil as that separation was—evil even as was the long and bloody contest into which the country was unnecessarily plunged by the last war—evil as were the consequences which arose at the close of that war from the unwise policy of ministers, who tamely abandoned all the advantages they had obtained—all these events would be as dust in the balance when compared with the evil which would arise from a war of rebellion in Ireland (great cheering). He would recall to the recollection of those who still took some delight in the studies of their early life, an anecdote very apposite to this point, and indicating in strong colours the difference between the policy of a wise, powerful and magnanimous nation, and that of such feeble and temporising statesmen as those with whom the rt. hon. gentlemen were associated. The Romans having conquered the Privernates, imposed upon them the colonial yoke, which the Privernates at a subsequent period endeavoured to shake off by war. They were



however, speedily subdued; and one of their delegates having been brought into the Roman Senate, according to the custom of that people, was asked what punishment he thought should be inflicted upon those who had so audaciously rebelled? His reply was worthy of the character of a man who sought to obtain freedom: "We deserve," he said, "to suffer such punishment as those ought to suffer, whose crime has been a wish to secure the privileges of freemen." The Roman Senate were of opinion that such a crime deserved no punishment; they came, therefore, to this determination—"Eos, damnet, qui nihil praterquam de libertate cogitant, dignos esse qui Romani fiant" (great cheering). The Privates, in consequence, obtained all the rights and liberties of the state, and were enrolled amongst the Roman citizens (cheering). Would to God that the example of Rome might have some weight in the present times (great cheers)! Would to God that the example of a great nation, which, in spite of the degradation that had now fallen on it, had tapped to mankind the brightest lessons of patriotic wisdom and virtue, and whose name could not now be pronounced without awe and reverence—might have its effect both in deterring us from measures which must lead to insurrection and rebellion, and in teaching us, if insurrection and rebellion should arise, the most efficient means to extinguish it for ever (cheers). We were not, however, reduced to such a lamentable extremity at present; the house might legislate in perfect safety. He had no occasion, therefore, to appeal to their apprehensions—for they had been relieved from apprehension by the declaration of the Catholic Association; but he appealed on that account with double force to their sense of justice, to their feelings as men, to their patriotism as statesmen, to their attachment to the interests of the empire; and he conjured them by all those qualities to give a dispassionate examination to the claims of the Catholics whenever they should be brought under their consideration (great cheering). There was also another sentiment in which he concurred with the hon. member for Galway. The hon. member had stated, that though he agreed with the Association in many points, he had attempted to dissuade it from intrusting its petition into his (Sir F. Burdett's) hands. The hon. member had frankly confessed his reason for so doing; and in that also he concurred. He should do every thing in his power to persuade the Catholics of Ireland to replace their confidence in the Attorney-General for Ireland: he should tell them that they knew the learned gent's ability, and that he believed in his sincerity (cheers); he should inform them, that though he declined to present their petition, he should be happy to assist the efforts of the learned gent; and he should conclude by expressing his hopes that they would soon behold the anxious wishes of so many years brought to a happy and a glorious consummation (cheers). The learned gent. had insinuated, that if he (Sir F. Burdett) now came forward to press the concession of the Catholic claims, he would be acting inconsistently with his former declarations in that house. Without caring whether he was guilty of inconsistency or not, he would answer the learned gent. that whenever he brought that great question forward, no efforts of his should be wanting to render it successful (loud cheering). He hoped that it was now

making great advances in this country; but, be that as it might, it was not for him to flinch from the performance of his duty (cheers). The cause was good, the grounds on which it rested were impregnable; and come what might, he would still be found among its supporters, and would take as his motto, the fine saying of the Roman poet—"Ille murus aheneus esto" (immense cheering).

Mr. Conning began by remarking upon the confusion which had crept into the debate from the variety of topics introduced by the different speakers, and of the necessity, before he approached the question, of clearing the confusion in which it was involved, and reducing the separate points of it to their respective magnitude. The question before the house related to the mode in which they should deal with certain associations in Ireland. To that there had been added, not unnaturally, the whole of the Catholic question. To these two questions, another had been added, respecting the general conduct of the Administration towards Ireland; and there had been further introduced a question relating to himself, on which he felt unwilling to obtrude any observations to the house, though a few were imperatively called for. He therefore divided the subject into four parts. With respect to the existence of certain associations in Ireland alien to the spirit of the constitution, and dangerous to the peace of the country, there had not been, as far as he recollected, any attempt from any quarter to gain say it. The question, therefore, which the house had to decide was properly this—whether, having received a description of the evil from the Crown, and having pledged themselves to consider of a remedy, they would now proceed to fulfil their promise: or whether they would turn round upon their former pledge, and say, "We have, on deliberation, determined that the Crown has been deceived—that the description in the Speech is unfounded—that true it is that certain associations exist, but untrue that they are either hostile to the spirit of the constitution, or productive of animosities or obstacles to the improvement of the country—that the Crown has been misled—and that our duty is to leave and confirm these associations in the exercise of their present power." Could any man seriously say, that the Catholic Association deserved any other epithet than that of unconstitutional, when it was recollected that it was self-elected, self-appointed, self-controlled and self-adjourned; acknowledging no equal and admitting no superior, levying money on the people by the force of its resolutions; interfering, laudably according to some, criminally according to others, with the administration of justice (hear, hear); prejudging individuals whom it was going to submit to trial and re-judging and condemning those whom the law had acquitted (great cheering)? If they were of opinion that such a character could be reconciled with the constitution, then they must have formed a very different idea of the constitution from that which he had formed, and must have read its history in very different volumes from those which he had perused. Then, were they prepared to say, that it did not promote animosity? As to the intemperate expression "by your hate of Orangemen," it had been said, that it was unfair to fix upon a particular phrase as indicating the character of a whole body. Granted, if the expres-

sion had slipped out in the warmth of debate and had been afterwards recalled; but if it were found in a document which had been prepared with care and deliberation—if it had been pointed out to the body who used it and had yet been retained—then they were justified in considering it as showing at least the *animus* of those who had used it (cheers). They had been told that the phrase had not the same strong meaning in the Irish that it had in the English language. He did not pretend to be a judge in the Irish language, and therefore that apology must go—*valeat quantum valeat*. But though all had shown their ingenuity in explaining it away, the palm had been clearly won by his learned friend (Sir J. M'Intosh). His learned friend, with a *naïveté* which was quite amusing, had told them, that hatred was in itself no bad thing (a laugh). "I hate a Tory," said the hon. member—

"some men hate a cat,  
One man hates this thing—and another that;"

but still hatred is no bad thing, and if it be properly managed, the Catholics may be persuaded to lie together in amity with their Protestant brethren, and to realize the prophet's vision of the lion and the kid lying down under the same shed. This reminded him of a comedy, which he had no doubt his learned friend admired as much as he did—he meant the *Rivals*. *Mrs. Malaprop* is giving her niece a lecture upon marriage. She tells her "it is best to begin it with a little aversion. I hated your poor dead uncle like a blackamoor before I married him; but you know, my dear, what an excellent wife I made him notwithstanding" (laughter). His learned friend had resorted to a piece of casuistry, which was extremely beautiful in itself, but had not truth enough to render it even plausible. He had described it as a judicious suggestion of moral philosophy to lead men to virtue by putting their vices in opposition. Upon this doctrine a man with but one vice was in a bad way (a laugh); but if he had two, he might become a very admirable character (roars of laughter). For instance, he would suppose that he had discharged a servant because he was a thief, and subsequent to his discharge had learned that he was a drunkard. Now, might he not send this man to his learned friend with a very good character? Might he not say, "I send you a man whom I know to be a thief, and have found to be a drunkard: you can't do better than employ him: his drunkenness will come in collision with his thievery, and he will make an exemplary character?" Nay, his learned friend was determined, like Longinus, to be "himself the great sublime he draws." According to Dr. Johnson, his learned friend had two vices; he was a Whig, and he was a Scotchman. Now if that great moralist had adopted his learned friend's doctrine of the collision of the vices, he might have said to his learned friend, "You're too much of a Whig to be a Scotchman, and too much of a Scotchman to be a Whig" (roars of laughter). It was, no doubt, from the collision of these two vices in his learned friend's person, that he had become what all his friends had found him, a perfect character (great cheering and laughter). For his own part, he must say that he could not see any hope of obtaining the great moral victory by the means suggested by his learned friend. But he was that as it might, the phrase, "by your hate to

Ormgemen," was the proof of his allegation that the Catholic Association excited animosities in Ireland (cheers). The hon. bart. had talked of the inconsistency between the prosperous account which was given of Ireland in the King's Speech, and the call for this bill. Inconsistency! No such thing—quite the reverse. The indications of the prosperity of Ireland were undeniable; but might there not exist an evil which retarded the increase of that prosperity, by rendering its continuance doubtful—which destroyed tranquillity for the present and confidence for the future, by setting neighbour against neighbour, and arming the prejudices of one class against those of the other, and which thus diverted from Ireland the superabundant capital of England, by which it might make the most rapid advances in agriculture, in manufactures, in commercial wealth and in all the arts which civilize and dignify social life (cheers)? Was it not, then, the duty of the house to remove this evil, to restore the natural course of things and to allow Ireland to enjoy every advantage which might raise her in the scale of nations? With respect, then, to the first question, namely, whether the house ought to put down an association arrogating unconstitutional power, tending to create animosity and to check the march of national improvement—the answer was easy, without entering into the Catholic question, or saying a word on the religious character of the Association; and he would now say for himself, that it was not on account of its religious, but on account of its political representative character that he called upon the house to put it down (cheers). When he spoke of the representative character of the Association, he did not mean to assert that it had ever affirmed itself to represent the people of Ireland. It was more wise in its generation than to commit so impolitic an act: if it had done so, no new act would have been wanted to enable the law to deal with it. But though the Catholic Association had not assumed this representative character, it was universally ascribed to it by others; too universally to admit of a moment's doubt. Then, he would ask, could two bodies peaceably co-exist in the country, one constituted as the House of Commons was, and another to which belonged a representative character as sacred and efficient as that of the House of Commons, though not conferred by the same process (hear, hear, hear)? Without discussing this point at present, the practical question was, whether the House of Commons should not check the Association before it really acquired the strength of a representative body? In debating this question, he had intended to abstain, and he trusted that he had abstained, from uttering any harsh language against the Catholic Association. He entertained no disposition to impute to it motives that were intentionally mischievous: if he had entertained it, the information of the hon. bart. that the Association had determined to submit to whatever the house might enact, made no difference in his mind as to the necessity of passing this bill; on the contrary, they ought equally to pass it, since it would be as great a relief to the Catholics as it would be to the Protestants, and would enable the Association itself to separate without compromising its character, which they would be reluctant to have done by any formal resolution of their own. If the debate had been kept within its

proper range, as it had been limited by the King's Speech, he should have concluded his argument at this point, and should have gone confidently to the vote, on the conviction that the house had even then no choice as to the course it ought to adopt, and which now it was imperatively called upon to adopt, by the information which the hon. bart. had communicated. But though the Catholic question had not been originally part of the debate, yet as it had been made so, it was impossible for him to forbear speaking openly and boldly his sentiments upon it. In stating his conviction that the Catholic question had lately retrograded in the favour of the people of England, he begged to be understood as intimating an opinion that he entertained with great pain and reluctance. But he could see no use in concealment. He thought it better to avow, on all questions, the opinions he might entertain, than to resort to any such concealment; and happy should he be, if, in this instance, they should be found erroneous. One great ground of his painful belief originated from a sentiment that had been most ably and justly expressed by the rt. hon. gent. who concluded the debate of Friday last. The rt. hon. gent. with that sagacity which always enabled him to select the topics that would tell best, either with this house or with the country, had on that occasion, when, for the first time in his life, he opened his lips on the Catholic question, thought it necessary to preface his remarks by stating his staunch adherence, from belief and education, to the church of England (hear, hear). A learned civilian had also taken occasion to assert the same profession of faith. He took this for a proof that those hon. members felt the Established Church of England to be firmly rooted in the affections of the people. Now the same sentiment was deeply rooted in the mind of the late Mr. Grattan, and in every bill that he had ever proposed in favour of the Catholic claims, there was a studious setting forth in the preamble of the conviction of that house that the Churches of England and Ireland were permanent and inviolable; and Mr. Grattan contended, that his bill, so far from shaking either of them, went to confirm their settlement (hear, hear). On this point he would refer to the Act of Union between Great Britain and Ireland—"That it would be fit to propose, as the 5th art. of Union, that the Churches of England and of Ireland shall be united into one Church, and that the doctrine, worship, discipline and government of the said United Church shall be preserved as now by law established for the Church of England, saving to the Church of Ireland all the rights, privileges, and jurisdictions, now thereunto belonging. . . . which shall be deemed and taken to be an essential and fundamental article and condition of the Union." Now, in reference to that article every bill which Mr. Grattan introduced for the relief of the Catholics was framed; and the preamble of the bill of his learned friend (Mr. Plunkett), for a similar purpose, was copied from those of Mr. Grattan. That preamble was in substance thus: "Whereas the Protestant Churches of England and Ireland are established permanently and inviolably. . . . and whereas it would tend to promote the interests of the same, and to strengthen the free constitution of both these Churches in essential parts, to" do so and so: great care being taken always to repeat the

fact of the union and establishment of the Protestant Churches. Up to the latest period at which bills for the relief of the Catholics had been discussed in that house, the belief of the people of England was, that this article of the Union would be a fundamental part of any arrangement that might affect the existing condition of either Church. But within the two years last past, the people of England had seen propositions introduced into the discussions of that house, which were contrary to the principles thus laid down; and questions had been discussed, and divisions had taken place, which had excited—and he spoke with knowledge of the fact when he said so—the greatest alarm in this country, and had reawakened apprehensions that were previously almost extinct. He would now read certain resolutions that were moved on March 4, 1823. The first was—"That the property of the Church of Ireland, at present in possession of the bishops, deans and chapters of Ireland, is public property, under the control and at the disposal of the legislature, for the support of religion and for such other purposes as Parliament in its wisdom may deem beneficial to the community; due attention being paid to the rights of every person now enjoying any part of that property" (tumultuous cheering). The second resolution was—"That it is expedient to inquire whether the present Church establishment of Ireland be not more than commensurate to the services to be performed, both as regards the number of persons employed, and the incomes they receive; and if so, whether a reduction of the same should not take place, with due regard to all existing interests." The first of these resolutions was negatived without a division; on the second, the numbers were, ayes, 82; noes, 167. Now he would take upon himself to affirm, as a thing which he positively knew, that this departure from what Mr. Grattan thought a necessary preliminary to a chance of a favourable reception for the Catholic question, the spirit, and the degree of that spirit which such proceedings had originated, had been causes of infinite suspicion and jealousy; and had disinclined from all favourable opinion of the question many among those who had but just brought their minds on this subject to a temper—not of opposition (hear, hear). They who thought that Catholic Emancipation was the one thing needful for the salvation of the empire, might also think that it would have been better if the legislature had never been irrevocably pledged to preserve the inviolability of the Church of Ireland. But he would warn those hon. gents. that they must settle that matter not with the House of Commons only, but with the supporters of the Catholic question; and that, before another bill could be introduced into that house for Catholic Emancipation, the movers and seconders of the resolutions he had referred to must have made up their minds to one of two alternatives—either to renounce those resolutions, or to give up the Catholic question (hear, hear). On this statement he was quite ready to go to issue, and would be content to abide by the event. He was ready to support the Catholic question, but he was determined to resist the spoliation of the Church of Ireland. He was ready to extend to the Catholics all the privileges of other subjects; but that was from the persuasion that it might be possible to maintain both reli-

gious together; though he believed it to be impossible to maintain those resolutions about the Church of Ireland and the Catholic question together (cheers). That that great question had retrograded, he thought he had assigned sufficient reasons to prove. It was his opinion, moreover, that if the Catholic Association were to continue, after the language that had been used in its name, and the intiminations of which it had been made the vehicle, there would be such a resistance in this country to carrying the question, as would, perhaps, be fatal to it. An observation had been made that all that remained to be granted to Ireland, affected only the higher classes of society, and to the lower, therefore, must be matter of indifference. Now, there was no argument that he should be at all times more ready to answer, or that he should, in times past, have felt more eagerness to combat, than the supposition that the lower classes would not be affected by that which regarded the higher—that there was no necessary sympathy between their cases, although the chain that connected them was one of innumerable links (hear, hear). It was true, that what remained to be granted to Ireland, must now be granted to her higher classes; for, by what he considered to be a great mistake in legislation, every thing which Parliament had yet granted in the nature of concession, had been granted to the rabble, as he might say; while it had been carefully withheld from the peer. All that the argument in question went to, was that the miseries of the lower orders of Ireland did not arise from the withholding of this particular boon. It was a question of feeling, simply, and not of fact. He was satisfied that until all classes were admitted to the full participation of all the rights of their fellow-subjects, the great work would never be complete. These being his opinions, he had to complain of the hon. bart. for impugning it to him as a reproach that he was connected with an administration divided on the Catholic question; and for appearing to insinuate, that his conduct could only be explained by supposing him to have been actuated by a love of office. He defied the hon. bart. to point out the day, or the month, since 1801, in which his animadversions would not have been applicable to any Cabinet. There had been periods, indeed, in which there had been a general determination to resist all concession to the Catholics; but of such a Cabinet he had never been a member (cheers). To the administration under which the Union took place, succeeded that of Lord Sidmouth, of which the late Lord Castlereagh became a member. Next came Mr. Pitt's administration of 1805. It was true, that in respect to Lord Sidmouth's and Mr. Pitt's administrations there was a bond of union, arising from the obstacles to the passing this question, recognized by all their members, which effectually silenced all speculative differences among individuals who concurred in rejecting the question altogether. After the death of Mr. Pitt, the Cabinet of Lord Grenville and Mr. Fox was formed—and he was not recapitulating these facts for the purpose of retorting on hon. gentls. opposite the vulgar reproach of "you have done the same;" but of historically proving the position. In that Cabinet were two persons entirely adverse to the Catholic claims—Lord Sidmouth, and the Chief of a Court, in which he hoped a member of the Cabinet would never be sought again—the Court of King's Bench. Next

came the administrations of the Duke of Portland and of Mr. Perceval; in which some sort of division existed. The course which he determined to pursue, was adopted in 1812. On the removal of the restrictions from the Regency, he anticipated that his colleagues would have felt themselves as unfettered by former obstacles as he did; but on applying to the administration, he was informed that the Catholic question would still be refused by the Cabinet. He then took his leave. He next alluded to Mr. Grattan's bill of 1812, and to the motion that he himself then submitted, calling upon Government to take the Catholic question into consideration. While that motion was depending, Mr. Perceval died; and after his death, office was offered to him by the remnant of the Cabinet. He sent but one question—did they persevere in opposing the Catholic question? They answered they were so determined; and he accordingly refused office (cheers). At no period of his life would office have been such a temptation to him. He had been in office before; he had been the author, in a great measure, and in that house the responsible defender of the Spanish war. He had gone through the contests which all the disasters and reverses that attended the commencement of that war called down upon the administration. In 1812, the prospect seemed to brighten—success attended our arms—and the cause which he had so long advocated under less auspicious circumstances, began to promise those triumphant results that ultimately crowned it. He would ask every hon. member who had within him the spirit of an English gentleman, and was animated by a heart-felt desire to serve his country, whether greater temptation to take office could be possibly held out to any man than was at that time extended to him—when he might have reaped the fruits of the harvest which he had sown under such discouraging circumstances (loud cheers)? But the answer of the Cabinet being what it was, he at once declined taking office. After these transactions that house addressed the Throne for a more efficient administration; and the negotiation was confided to Lord Wellesley and himself. Lord Wellesley addressed himself to Lord Grey—he communicated with Lord Liverpool. This proved that his opinions, however erroneous, had been consistent. He did not condemn those who might think him wrong in this opinion, but he claimed from them the candour of a fair judgment of his acts, when he showed that when he was commissioned, not to join, but to frame an administration—not to occupy and conduct the helm of public affairs, but to distribute those duties to others—that then, under circumstances which placed him above personal imputation, he would have formed, if he could, an administration holding different opinions upon this important question, yet agreed upon others which involved the best interests of the community. He might have erred in forming this deliberate judgment as to the best way of composing an administration; but to the charge of sinister views and want of integrity, he disclaimed to proffer an answer (cheers). Here he must take the liberty to complain of a most disingenuous use which had been made of his refusal to join office then, in 1812, and the inference attempted to be drawn, that that refusal was a virtual pledge, never to enter office until the Cabinet had agreed to move onwards with the Catholic question. He had refused to come into an ad-

ministration united against the Catholic question, and if by that refusal he meant to have said, "I will never enter office until you are agreed upon this question," what madness was it not in him, within one short fortnight after, to have endeavoured to form the sort of mixed administration which he had described? The case merely required to be stated to carry with it its own refutation (hear, hear). These were the circumstances which had preceded his motion upon the Catholic question. That motion was carried by a majority, which would to God he could see again! of 129. The same motion was brought on a fortnight after by Lord Wellesley in the House of Lords, when the numbers were, 126 against, and 125 in favour of it; the measure being only lost by a majority of one. From that time, then, in the year 1812, the Cabinet had gone on acting upon the same basis respecting this measure as at present. To the principle of it he acceded: he might err in judgment; but when the principle complained of in his case had been acted upon for 25 years, why was he alone to be held liable for the whole responsibility? Why was that point of conduct to be selected to fix upon his character a shadow of imputation, or on his actions a suspicion of insincerity (hear, hear)? He could, however, throw some light upon the motive for this selection, for he was perfectly aware why he had individually become obnoxious to some, at least, of the advocates of that cause of which he had been the zealous advocate. It had been uniformly his determination, to introduce and support the Catholic question, without holding any communication with the Catholic body. He had shaped his conduct and advocated their question, not for their sake alone, but for the sake of the empire—not with the feelings of a party man, but with those of a comprehensive benevolence. This was the reason why he was singled out for attack—because his doctrine had been, that when any sect had a grievance to complain of, that it was for Parliament to consider the case, and decide what they ought to give or withhold, and that it was for the petitioners to receive the measure of redress which was provided for them. He had always denied to such parties the privilege of stipulating and meting out for themselves the relief with which they would be satisfied, and of dictating to Parliament the terms of adjusting their claims. Both principle and experience had taught him to exercise and determine his actions upon his own reflection and judgment, and not to be led, governed or restrained by theirs (hear, hear). He had many apologies to offer for thus intruding his private feelings upon their attention (cheers). To be thus taunted with a want of feeling for the claims of the Catholics—to be charged with truckling to a compromise of their rights—to hear this constantly insinuated against him by those who owed him gratitude for his services in their cause—was a species of treatment which called upon tameness itself to vindicate its claims. He had told them, that in 1812, at that period when he would have given ten years of life for two years of office, not for any sordid or mean purpose of selfish aggrandisement, but for a different and more honourable object (hear, hear)—at that period they knew that he had peremptorily refused office, rather than enter a cabinet collectively pledged against the Catholic question. But

was that the only sacrifice he had made? Let the house and the country hear him on that point. From the earliest dawn of his public life—ay, from the first visions of his youthful and academic contemplation, there had been one paramount object of his ambition—it was his earliest and latest hope—he looked to it with an anxious and ardent glance—before it all other prospects of ambition vanished—in comparison with it all the blandishments of power, all the rewards and honours of the crown—all vanished into nothing before the one object which, through life, had been dearest to his heart—it was to represent the University in which he had been educated. He was in the fair way of obtaining that highest reward of his labours, when the Catholic question crossed his way. He had adhered to his principles, and thereby forfeited his claim (hear, hear). In that loss, he had lost all: when the question came forward, his pledges and his consistency absorbed his thoughts—they came across him just then, and he redeemed them; but from that hour to this he had never stated, either in private or in public, the extent of the irrevocable sacrifice which he had made at the shrine of his honour (loud cheers). Was it not a little too much, then, to be taunted and twitted as he had been, for his imputed compromise? Therefore let his judgment be arraigned, but let his honour be acquitted (hear, hear). In regarding this Catholic question, if it were ever carried—and sure he was it would—in his opinion it would never be effected by a cabinet expressly formed for that purpose. His belief was, that such a cabinet would not only fail in its object, but create a flame of discord in the country which it would be difficult to quench. If, then, it were carried at all, it could only be done by discussions in that house, leading to parliamentary decisions, which would operate upon the Government, not so much as a deliberative body, but as one consenting to and abiding by the decision of the Parliament. It had been imputed to him individually, with too flattering a notion of his influence, that he had the means of carrying his view of this question into effect. He was certainly at perfect liberty in office, as well as out of it, to move the question whenever he pleased to do so. Whether he did so while in office—whether he did so out of office—whether in either case he should move it at all—was a consideration which he reserved for his own discretion. Imputations or appeals to him would in this view be made in vain; he would hold the reins over his own guidance, and not be driven from his course (hear, hear). He had been asked whether he had no desire for popularity. The man who disregarded it would be unfit for office in a country which boasted a popular constitution (hear, hear). He had encountered too often the vicissitudes of public life not to bear unpopularity without fear; but he desired, like all men, if he could, to retain popularity honourably. His motto was *laudis inane sonum*, and he should add, in the language of Dryden—

"I can enjoy her while she's kind;  
But when she dances in the wind,  
And shakes her wings, and will not stay,  
I puff the prostitute away." (cheers and laughter)

He would not court her by the surrender of his judgment or opinions. If the learned gent.

(Mr. Brougham), who had on the first night of the session identified himself with the Catholic Association, thought he had gained the palm of popularity, he could not congratulate him upon the fancied acquisition. He did not mean to talk lightly of the learned gent.'s support of this question; he could not undervalue the services of such an advocate in any cause which he thought fit to support—his immense talents, his great acquirements, his profound knowledge, his powerful reasoning, must at all times secure him the applause of those for whom he devoted them; but he would prophesy that in thus applying them, he would find he had in the end mistaken his road to fame—

“ —————stictimus tela aspera contra,  
Contulimusque manus: experto credite quantus

In clypeum assurgat, quo turbine torquetur hastam.”

Differing, then, as he did from the learned gent. as to the Catholic Association; for the sake of the Catholic question itself, he would take his firm stand by the present measure (hear, hear). It was because he thought that all that had been done, had been effected by temporary expedients—because they ought to act with circumspection—because they must remove all obstacles to the Catholic question, one by one, for the purpose of recovering public favour to it, that he supported the bill. As one means of that recovery, the removal of the Association was indispensable; and if the Association should remove itself, it would indeed have been beneficial to Ireland, by having given rise to this useful measure.

Mr. Brougham began by regretting that the numerous personal topics introduced into the debate, more particularly by the last speaker, were attended with this unpleasant consequence to himself, that whereas the rt. hon. gent. had entertained the house with those personal anecdotes, which were well known to chain their attention more than any other description of address, he was compelled to confine himself strictly to the measure itself. He stood before them as the defender of the Catholic Association, as the advocate of the right of the Irish people to meet, to consult, to petition, to remonstrate—ay, and to demand (cheers); and he would declare his solemn opinion, which he hoped would reach the whole of Ireland as well as England, that the firmer and stronger their remonstrances, provided they were peaceable, the greater would be their prospect of success, in obtaining those privileges which alone made life desirable. Were the complainants to become abject in their suit, they would deservedly prostrate themselves and their cause, and lapse into the contempt which was due to slaves. The house would at once see that he did not mean to blink the question: he took not this course from any love of fleeting popularity, which he knew as well as the rt. hon. gent. how to give the wind to. What were the acts charged against the Association? the first and gravest, was their interference with the administration of justice. Their offences in this way were limited by gentlemen opposite to two cases, in neither of which had their attempts been successful. In one, it was alleged that the judge who tried the cause praised the conduct of the prisoner; he had also applauded the conduct

of the prosecutor. In the other, the house was led to believe that the efforts of the Association, who had ranged themselves above the law—who had confederated—who had clubbed money—who had borne down upon their intended victim with the weight of their united opinion, expressed in a previous debate—they were told that all these efforts had ended—in what? In an unanimous acquittal. But then, said the hon. member for Hertfordshire, “it might have been otherwise.” Now mark the subtlety—“It might have been otherwise!” To this he would only reply, that had it been otherwise, his view of the present measure might have been otherwise (hear, hear, hear). If, instead of an acquittal, the character of the prisoner had been wrecked by a verdict—if the storm which blew harmlessly over him, because the law had found him innocent, had overwhelmed him, and he had sunk in the waves of persecution—then, he would have admitted that the existence of the Association was not so safe—that its proceedings were not likely to contribute so largely to the advantage of the Catholic population. And this was all which could be produced from that storehouse of expedients, the Irish office! But he had not yet done with them. One of those cases had been grossly mis-stated by the informants of the rt. hon. Sec. opposite. His advisers had mingled the poison of their own wicked invention with the tales which they poured into his ready and willing ear. After the exposure he was about to make, he should like to see the man who would have front and nerve enough, avowedly to support this measure, without papers, without documents, without the form even of a select committee, or the more odious pretext of a green bag, to lead it on; merely because the Irish Sec. had given his word for its propriety. They were told that 43 magistrates had instantly acquitted the prisoner; and some stress was laid on the respectability of their characters; especially that of Mr. Blackburn. They were induced to believe that, with almost the same readiness and unanimity, they had declared that there was not the shadow of a charge against the prisoner. He had read the account of that trial. He found that the minority was considerable of those gentlemen who refused to sanction the assertion, that there was not the shadow of a charge. He had read the whole of the examinations. He found that there was a surprise on the prosecutor. Statements were advanced on the trial which had not been made on the examinations; and others which had been made were contradicted, and no reason assigned. That prevented a verdict, and a large minority of the magistrates refused to vote that there was no foundation for the charge. But he had more evidence. Since the commencement of this debate, he had seen and conversed with the leading counsel who prosecuted for the murder at Ballybay. It had been as forcibly alleged in this, as in the other case, that there was no foundation whatever for the prosecution. On the trial there was the grossest discrepancy of evidence. One set of witnesses proved that the murdered man was knocked down, his ribs broken, and that horrible mutilations were effected upon his person; and this was contradicted by the surgeon, who stated that the body had received no direct harm in the fray, the death-blow being given by the fall. The fact

was this—The prisoners were put upon their trial under the deepest and gravest suspicion. One of the witnesses deposed, that another man, whom he should know were he to see him again, but whose name he did not know, nor had he seen him before, came first up to the deceased and struck him violently, so as to cause his death; and that then the officers rushed forward, and mistakingly seized one of the prisoners, who was innocent. Bread and wine were brought to the dead man, and offered to him as he lay on the pavement, dead as a stone, and known to be so. On being cross-examined, he was asked if he had ever revealed these circumstances before? Never. Had he not been before the magistrate? Yes. And before the coroner? Yes. Had he uttered a word of this before either of them? He had not. He was the servant of the prisoner's brother, he was on good terms with his master, and the prisoner and the brother were very well agreed. He was then asked why he had not mentioned a word of this before? The judge who tried the cause refused to allow the question to be put (loud cries of hear!). He was speaking in the presence of many able lawyers—men who had assisted in as many trials as there were hairs upon their heads; who were used equally to the difficulties of prosecuting and defending. He left it to them to defend the conduct of that judge, if they dared. He would notice one extraordinary omission which he had remarked in all the speeches of the gentlemen opposite—the name of the judge who had presided. He would in fairness to that learned person name him, though in fairness he would omit that which had been said of him by an hon. member of that house—that it required the likeness of two animals to describe him: for he had the ferocity of one, and the baseness of another, which the beast of ferocity wanted. That learned judge, was Baron McClelland. He had read over the evidence, and he was not only not satisfied with the acquittal; but his positive opinion, founded on a statement in an Orange newspaper, was that the men had a very lucky escape. At the same assizes, the Association had undertaken some proceedings of a defensive kind. The learned counsel employed by them in that business, was engaged, when it was called on, in a cause under trial on the civil side of the court. Baron McClelland was respectfully entreated to delay the trial till the prisoner could have the aid of his counsel: he refused the request. A messenger was then sent to inform the counsel that the prosecution must proceed. The messenger was prevented by the throng from coming near enough to give him notice. The judge still refused any delay, and the man was hurried to trial in this embarrassed state, without the assistance of his counsel, without preparation of any kind. When the counsel entered from the other court, the first witness had been examined. He begged that he might be allowed to cross-examine. The same judge who had refused to allow the question of cross examination in the case of the murder, and by that means rescued one prisoner from the fate which hung over him, now refused the necessary cross-examination of a witness whose word was staked against the prisoner without any cross-examination (hear, hear). The prisoner was convicted, and sentenced to twelve months imprisonment. Should he be told after this, that justice

was administered in Ireland with the same decency and impartiality as in England? They had been told by two learned persons, that the courts of justice in Ireland were open to all; which forcibly reminded him of an observation of Mr. Horne Tooke's, in reply to a similar remark respecting the courts of justice in England. "We are informed," said that acute reasoner, "that the courts are open to all—so is the London Tavern; but with this difference, that unless you have money to pay, you can have nothing." Another difference distinguished the Irish taverns of justice. There, as here, the bars of the tavern were open to all comers; here, however, if a poor man could muster a little money, he could walk in and would be served with the same commodity which the rich man enjoyed. But at the Irish taverns for law—whether the Weather-cock, the Rock or the Bottomless-pit, for such were the names they passed by, they had one commodity for the rich, and another for the poor. For this they had better authority than the assurances of the two learned gentlemen. Lord Redesdale, after serving the office of Chancellor in Ireland, must have known something of the judges, and enough of the proceedings in courts of justice; and it was his opinion—that in Ireland there was one law for the rich, and another law for the poor. Now for the other charges against the Association. And, first, for the charge of impudence: in other words—their acting openly and without reserve, showing their designs and intentions in the face of day. Now if they had skulked from the public eye, they would have heard the opposite charge, that their designs must be dangerous because they were secret—because they did not proclaim their purposes as virtuous innocence always did? Boldness and impudence were now ascribed: then it would have been perfidy and fraud. They were accused of aping and emulating the forms of Parliament—those solemn and authoritative forms which were so often the theme of praise. Had they done otherwise, would not the charge have been inverted? They would then have been accused of daring innovation, of showing in the very order of their proceedings the revolutionary spirit of the French Convention, and an envy of its powers. But now—astonishing impudence!—they encroached upon Parliament—they borrowed and abused its forms—they, who really represented six millions of people; while the house represented twelve millions, with whom they were perpetually at variance. Then they were self-elected, self-constituted, self-regulated, self-adjoined—all of which meant that they did not really represent the Catholic population. No; for if they did, it would be illegal; if they affected the situation of delegates, they fell within the Convention Act: if they elected themselves, they were not true representatives. How unfortunate was this body! If they were open, they were impudent; if secret, designing. If they found open fault, it was turbulence; if they were quiet, there was danger. Did they pronounce censure or blame? That was disaffection. Did they praise? That was hypocrisy. Nothing they could say or do would satisfy their opponents, and the bill stated that the only way of reconciliation was to destroy them altogether. "I don't care," said an hon. member, "about the blustering of Ireland, but beware," added this alarming logician, "when

Ireland shows the aspect of tranquillity." This tranquillity was more fatal than the system of 1782, the jacobinism of 1793 and the rebellion of 1798. So that by this ratio the wound given to the public peace was only great because

"—— it was so small."

To which sensible complaint he would make the sensible answer,

"Then 'twould be greater were there none at all."

The fact was, that the Association did contribute to the tranquillity of Ireland, and that without exercising any other control than by the talents of men who sympathized with the people, who participated in their sufferings and felt their wrongs. Did the house really dread their power? He could tell them how to annihilate it ere the morrow of that evening in which he was speaking. Let them take the advice of the Attorney-General, and remove the grievances which oppressed Ireland. Though late, yet there was time: let them begin to do justice. The Association would vanish, and Ireland would bless them, as she would curse them if, instead of redress, they rivetted her fetters. As to the expression in their address, which had given so much offence, he would not special-plead it away: it contained no illegal meaning. If hatred could with fairness be felt and proclaimed by any man, it must be by the Irish Catholics: against the Orangemen, their habitual and malevolent oppressors, especially if this last violent endeavour of Orange oppression should be carried into a law. If they had commenced their address to the Catholic people, by saying, "We adjure you by the love you bear your Orange brethren—be at peace;" they would have been charged with hypocrisy instead of violence; and he certainly, in such a case, should, for one, have turned from the document with disgust (cheers). As to strong language and hasty expressions, not even they, clothed in the real character of senators, could prevent themselves from being hurried into occasional lapses. He would instance the expression of an hon. friend (Mr. Grenfell), who, he was surprised to find, was to vote for the bill, after declaring that in the event of justice not being done to Ireland; were he upon his death-bed, he would pray to God, not only that Ireland might resist but that she might be successful in her resistance. Even the Attorney-General for Ireland had gone too far, if strength of expressions were conclusive against those who used them. In one of his most eloquent speeches he had said, he liked English connexion, and would perish in order to preserve it; but "if he found that connexion inconsistent with the independence of his country, he would give the connexion to the winds, and clasp the independence of his country to his heart" (cheers and laughter). The words were elegant, but strong—they were the effusion of an honest man and a patriot—but they were not used without some risk—they were on the very verge—they contained a pledge which the learned gent. beyond doubt, being an honest man, was prepared to redeem. If called upon, he would not fail his country; but then he could only win his crown of glory by becoming a rebel to England (laughter). Let the house have more patience and loving-kindness towards these oppressed and injured men, and not expect from them the language of kindness towards a

set of men who acted on the devilish principle of retaining the shadow of the wrong after its substance was removed, for the purposes of insult and irritation. But then they were not only a self-constituted body; they had the exactitude to collect revenue. Levy and revenue were hard words, especially when the contributions were voluntary. A man paid his penny, or if he could not afford that, his half-penny; he paid his shilling, but if that were not convenient, his sixpence was not unacceptable (a laugh), and if he paid nothing at all, he still received the advantage of the funds of those who advanced their trifle. With their money he was defended from unjust prosecution—with their money he was enabled to bring his oppressor to justice. Such was the system; such the compulsory manner in which these funds were collected. He would read a very few lines from a book he held in his hand, containing minutes of the Conference of the English Methodists—a most praiseworthy, pious and excellent body of men; men whom he had defended when their privileges were menaced—and whom, under similar circumstances, he would defend again. They were in the same situation, with some few shades of aggravation, as the Catholic Association. Instead of 3000 individuals, the society of Methodists comprised 500,000, opposed to, and in direct contact with the Church, and levying their rent without exciting the smallest alarm in the mind of the member for Oxford (Mr. Peel). This was quite correct, although their hon. leader in that house (Mr. Butterworth) was prepared to state that there was not the slightest similarity between the Conference and the Association (a laugh). It was said, that this Irish Association imitated the forms of that house; but they did not come near the Methodists. They had pursued them into their very sanctuary. In this document, they spoke of the "Secret Committee of Privileges for the ensuing year." He saw his hon. friend (Mr. Butterworth) was uneasy on his seat while he stated this fact, as if the Committee of Privileges were already suppressed. The Irish Association never thought of any such thing. They were told that the Association collected rents; and that they were obliged to return them on some day certain. This statement was accompanied by the uplifting of hands and the upturning of eyes (a laugh); and it was said that nothing had ever been like it but the Jacobinical assemblies of the French Revolution. But what said this document? "It is expressly required, that the collection ended in October shall be paid in not later than the 5th of November." This was pretty prompt payment for a private association (a laugh). The Chancellor of the Exchequer did not go to work so quick as that (a laugh). They allowed only fourteen days for payment. Formerly the Chancellor of the Exchequer allowed three months for settling arrears; but the hon. member for Aberdeen had taken the case in hand, and only allowed him to give six weeks now (a laugh). The book went on to direct, that "the treasury accounts should be closed on the 24th of June, that the proper officer might bring before the Conference the state of all their funds. The list of subscription must be brought on or before the 20th of June; and, at the annual meeting, the officer must bring all the additional subscriptions. The sums received would be reported to the superintendants at every



district meeting." Now, it was said with regard to the Catholic Association, that they had two books—one for subscribers' names, and one for non-subscribers'. The latter was held in *terram* over the non-subscribers—being as much as to say, "If you do not come forward, you will be treated in some unpleasant manner." This, however, was not the fact. There were not two books kept. It was impossible they could be kept. This circumstance proved how alarm awakened men's fancies—how it made even the gravest and soberest men most credulous. If any man wished to describe the effects of alarm, he could not do better than state that certain gentlemen got up in that house, in the month of February, in the 6th year of His present Majesty's reign, with a possession of their faculties, a gravity of manner, a sedateness of countenance, that were envied by men of less nerve, and repeated tales of a nature the most baseless and extravagant—which the house believed;—that amongst other things it was stated, that of a population of 6,000,000, the subscribers, to the number of 500,000, were enrolled in one book; and the non-subscribers, the remaining 5,500,000, were set down in another book (a laugh). The document to which he was referring then went on to say, "that annual district meetings should be held, and when any dereliction or gross deficiency should appear, the chairman should make strict inquiry into the cause" (hear, hear). He warranted that it would be a strict inquiry. Where any thing in a financial shape came before these religious societies, it was always strictly looked after. Here, then, was a statement, in nine or ten columns, containing the financial accounts of the Methodists; every item most regularly noted down. And yet it was one charge against the Catholic body, that an account was kept of their funds! He saw something lying on the table of that house, which somewhat startled gentlemen when it came in, for it answered extremely well to its title—"Army Extraordinaries." He found the same item in the accounts of the Methodists (laughter). Here were the "extraordinaries" of the "Army of the Faith" (laughter). There was also in these accounts, as in theirs, a *deficit* (a laugh), and persons were ordered to go the circuit to make up the deficiency. It appeared that the Methodists took a number of children under their care, and it was directed that every 149 persons should furnish one clear child's subsistence. The Catholic Association collected voluntary contributions; so did the Methodists: but the latter went a step farther; they assessed individuals. Did he state this to blame the Methodists—to cast a shadow of doubt on their motives, or on the legality of their proceedings? Certainly not. But he argued, that what was right in England, could not be unlawful in Ireland—*but* what the Methodists had a right to do, and rather than give up which they would go to death, could not be a matter of pretext for imposing coercive laws in Ireland. It appeared, however, that the priests were employed as collectors, and were members of this Association. Great was the cheering when the priests were mentioned. But he would ask, if the priests, the poor, and the great commoners, had not been with the association, would they not have been told by the same persons who now made their junction with it a cause of complaint, that those who were stirring up this

business consisted of a contemptible faction? In that case, the Catholic hierarchy would have been spoken of with much praise, as men of piety and virtue—the Catholic nobility would have been overwhelmed with compliments to their loyalty—the wealthy Catholic commoners would have been much lauded; and then would have come this conclusion—"If these bodies had given their countenance to this measure, then there would have been some security of the public; but here is a set of lawless men, without any person to curb their passions—men who have no stake in the country as a security for their proper conduct. They must be put down, because there is no property amongst them." They would then have been put down, because they were a priestless, peerless set; now they are about to be put down, because they are neither the one nor the other (hear, hear). The last charge against them was, that they attempted too many things. How stood the fact? Tithes they never had touched. Parliamentary Reform they not only never had touched, but they refused to have any thing to do with it. When a most learned and venerable man, Mr. Bentham, sent his subscription, he called on them to take up the cause of Parliamentary Reform. A committee of the Association sent a letter in answer, that the Association must "stand aloof from all questions, except the Catholic question, and the redress of the grievances of Ireland." So much for the unfounded charges against that body—and so much for the countenance that had been given to them (hear, hear). Before he sat down, he would say one word on the subject of Catholic Emancipation. The rt. hon. gent. (Mr. Canning) defended himself against many charges; some of which had not been made against him. But his (Mr. Brougham's) objection was, that the rt. hon. gent. who had always professed a friendship, and he believed sincerely for this cause—who was its most active, and he believed conscientious supporter—it was to him a most marvellous thing, that he should sit in a Cabinet, where he was allowed to bear sway, where he might have brought forward this question, and have carried it if he list, and yet had not introduced it. This was the charge—and he mentioned it in grief, and not in harshness. At this moment, when the cause of the Catholics was in peril—at this moment, when their claim must be granted, or be for ages denied—at this moment, when their fate was in the balance—at this moment, when the scale was quivering with their destiny—what had the rt. hon. gent. done? He would demand of him, in the face of the Catholics and of the country, whether, at this critical moment, he had not assisted in raising the cry of "No Popery" (hear, hear). He put the rt. hon. gent. on his trial, and he charged him with having done his best to raise that cry; but thank God he had failed. The worst Orangeman, the most unprincipled enemy of the Catholics, could not, with all his ingenuity, have selected a surer mode of injuring them. With that art of balancing his periods nicely, which he had learned from his master, Mr. Pitt, of whom Mr. Windham facetiously observed, that he could speak a King's speech off hand—with that art which enabled him to say as much as left you in doubt, and to conceal what was essential and material—with that art the rt. hon. gent. had acted; and it was impossible to give a greater blow than he had done to

that cause which, he hoped he did not speak correctly, when he said, he had deserted. He used no more nor less than these otherwise simple expressions, but expressions in this case of the most pernicious nature—"I stand singly, the whole Opposition with me. I stand alone, the Whigs with me." He was as much a friend to the Catholic question as ever; and yet that friend to the Catholic question said, that the people of England were as a man united against it. This was acting like the *Sneerwells*, and the *Candours*, and the *Backbites*, whom he had this night quoted. One of those characters said, "I like such a person, but I cannot get any body else to like him." So he liked the Catholics, but he could get no one else to do so (laughter). Why not have spoken candidly—"Not only the Whigs in Parliament, but all men of liberal opinions are favourable to the Catholic claims" (hear, hear). London and Westminster, and Southwark, notwithstanding what the rt. hon. genl. said, had declared for them over and over: and was the very heart of the country to be considered as nothing? Even in 1807, when the Whigs were turned out on the scandalous cry of "No Popery! the Church is in danger!" London and Westminster, Yorkshire, Lincolnshire, and Liverpool, had refused to join in it. The argument now was, "I cannot propose this measure, the country are against it." This he denied. Where were the "No Popery" cries—where any expressed dissatisfaction of the public, for which ample time had been given, partly through his advice, by protracting this very debate, whereby an opportunity has been afforded for so many splendid specimens of reasoning, learning, and eloquence, by which such service had been rendered to the cause of civil and religious liberty, and by which he hoped the last blow had been given to a pernicious and scandalous delusion (hear, hear). But he would suppose, for the sake of argument, that the country was opposed to Emancipation; then if Government felt that they were right—if they knew that it was of paramount importance to the safety and integrity of the empire, why did they not oppose themselves firmly to the tide of vulgar prejudice? Were they always so unwilling to run counter to public opinion? The Chancellor of the Exchequer formed part of the Government in 1820, and he would ask him what was the state of public opinion on that most infamous, detestable, and disgusting measure, to which he marvelled that any man on the other side could bear an allusion without the crimson starting to his cheeks—the persecution of the late Queen (hear, hear, hear). Government had then no disinclination to meet the cry of the mob, or to combat the discontents of the army; they were prepared to resist the wishes of meetings in all parts of the kingdom, and the avowed sentiments of many of their most steady supporters. Even the Church for some time, at least, was passive, till the Ministers and their adherents gave it the tone of reprobation. All these great interests were embattled against them—all felt with one heart, and spoke with one voice, yet nothing could induce the persecutors of the Queen to pause for one instant in their disgraceful and disgusting course. Was that course rendered necessary by state expediency? No. Was one half of the empire about to be torn away if the Ministry did not confront public opinion? No: But there was one person in the kingdom who held in his hand the

issues of official life, who required that the proceeding should be commenced, and to him the Cabinet yielded their private prepossessions—with an unhesitating baseness unequalled in any European Court (much cheering)—which the Cabinet of Russia, or even of Ferdinand and the Seventh, could never have surpassed. Like the base, crouching, unhesitating, unflinching slaves of the Divan, with the bow-string twanging in their ears, and the scimitar glancing before their eyes, they consented to gratify groundless, but in that high quarter, excusable caprices, though they were without all excuse beyond what might be found in the most anxious desire to retain their places. If he were in want of reasons for conceding the demands of the Catholics, good God! what an ample supply had the Attorney-General for Ireland given him. The great friend and patron of Emancipation—the appointed guardian of the peace and tranquillity of Ireland, with knowledge of many facts with which he alone could be acquainted, had declared that the bill was necessary, because Emancipation was to be refused. How ominous were these words to the people of Ireland! To his ears they meant neither more nor less than this: "Prepare for the coming storm; set your house in order, while you may; the tempest is brooding, and will quickly burst; that is about to be done, which, when completed, may produce, nay, must produce convulsion, unless preventive measures are taken." Had Lord Londonderry been alive, he would at once have recommended the adoption of military measures to meet the threatened danger, and he knew not whether he would not rather see precautions of that kind adopted, which at all events must be temporary, than witness the passing of a bill like the present, which made so violent an inroad on the constitution. If the Association in its present shape, should be put down, he hoped that the Catholics would not therefore be deterred from pursuing all the means which might be left—all that the law had not prohibited. Let them not add to the list of those false friends who had already proved so fatal to their interests; let them not trust to that which was falsely called moderation and mutual concession. Let them renounce, with the contentment which they deserved, those pretended advocates of their cause, who had betrayed it and deserted them; but let them rely with implicit confidence on those old and faithful friends who had proved themselves in all emergencies to be what they professed; let them rely on their distinguished leaders; let them go on in the same honourable course which they had of late pursued—firm and united. Let them look to England, and admire and emulate the conduct of their fellow-sufferers here, who, having tried for ages the effect of moderation, and passive obedience to excess, and finding that they were just as badly off as their brethren in Ireland who had pursued an opposite course, had come forward as one man, and from the illustrious Duke at their head, down to the poorest peasant, had united themselves in the pursuit of their common object, a union, he exulted in knowing which was likely to produce the happiest results (cheers). He had been told by the rt. hon. Sec. that he knew little of Englishmen, if he thought they were to be influenced by the formidable attitude in which Ireland had placed itself. But he found that the Catholics had never got any thing, unless when the Government was placed

in difficulty. The gentlemen who pressed the present measure gave a convincing proof, that in times of peace, the Catholics had nothing to hope for in the way of concession. All that the Catholics had obtained, they had obtained in other times. In 1778, and in 1782, all that was granted to them was extorted, in fact, by men in arms. In 1793 there were more alarms, and then the elective franchise was granted. He called upon the Catholics, not by any bad passions which might influence them—since all men were influenced by bad passions—not by that enmity, which he would fain see stifled—not by their sense of injuries, which he wished and hoped to see buried in oblivion, but by every principle which they held sacred as free men and Christians, to pursue the course which was before them (cheers). He called upon the members of the Government, by the responsibility of their stations, by their characters as statesmen, by every principle of policy and prudence, to deal with the Catholics, not with feelings of hatred but of charity—not with measures of oppression but of conciliation; and to reflect, ere it was too late, on the consequences which must result from this bill. It would alienate the Catholics for ever. It would turn discontent to rage, and it would arm rage with new weapons. On their heads would be the consequences of this misguided policy; and they must answer for it, if their present measures should tear Ireland from this country (loud and repeated cheering).

Mr. Goulburn rose to reply. He had been charged with having made a false statement respecting two transactions which he had alluded to in his speech. With regard to one of these, the house should hear Mr. Blackburn's report. He said, "A trial of unusual interest has been held before me, in which a soldier was charged with having administered illegal oaths. It lasted seven hours, and at the conclusion of it the man was acquitted by the unanimous verdict of forty-three magistrates. I regret to say that the evidence for the prosecution appeared to be a foul conspiracy, to accuse and criminate the soldier, and that the most abominable means were restored to for effecting the object of the conspiracy" (cheers). With respect to the other case, the learned member for Winchester had asserted, on the authority of the leading counsel for the prosecution, who was stated to be a Protestant, that that gentleman had not been allowed to put a question to a witness, in consequence of which the riddlers were acquitted. Now it was impossible to answer such assertions off-hand; but he doubted the fact altogether—first, on account of the well-known character of the judge; and secondly, because there had been no notice taken of it—no allusion to it, even, in any of the proceedings of the Catholic Association, although six months had now elapsed since the trial.

Mr. F. Fitzgerald said, that he was present at the trial of the soldier, and could state that there was no division of sentiment amongst the magistrates as to the innocence of the party.

The house then divided—the numbers were—For the motion, 279—Against it, 123—Majority, 156.

The bill was then brought in, and read a first time.

FRIDAY, FEB. 19.—Col. Trench presented a petition from the archdeacon and other dignitaries of the cathedral of Ely, against the Catholic Association. The petition, he observed, stated, that the Roman Catholics were as hostile to the principles of the Reformation, displayed as much prostration of mind to the see of Rome, and were as much distinguished by bigotry and intolerance at the present day, as they ever were.

Sir T. Lethbridge presented a petition from the city of Wells and its vicinity. The petitioners declared that they were friends to religious toleration to its utmost extent, but they objected to arming the Roman Catholics with political power (hear).

Mr. Brougham said, that when such a petition—one of the few, he was glad to say, which had been produced by the foolish cry "No Popery!"—was presented, some few anecdotes, relative to the getting up of so valuable a document, could not be unacceptable. He had received his information in a letter from a gentleman of rank in the neighbourhood of Wells. The petition, it seemed, was sent to the public inn from the office of the attorney, who was the agent of the hon. bart.—not that he meant to insinuate that the hon. bart. was acquainted with the circumstances under which the petition was got up. He caused the petition to be left at the inn, and he laboured strenuously to raise the obsolete cry of "No Popery!" for the purpose of injuring the cause of the present members for Wells, Messrs. Tudway and Taylor. The gentleman who wrote this letter said—"the agent rode down by my house, while he was canvassing for signatures to this petition. He stopped at the school, which is near my residence, and requested the schoolmaster to procure all the names he possibly could, without giving any copy of the petition." The schoolmaster, it appeared, agreed to this proposition; and, forthwith, put down all the names of his scholars (laughter) who could not write (laughter), and he got those who could to put down theirs. The boys went home delighted, bragging that they had signed for "bricks and mortar" (laughter)—a cant phrase for electioneering purposes at Wells. There were two parties there, opposition and ministerial, the latter of which was known by the designation of "bricks and mortar" (a laugh). The schoolmaster having effected his object with individuals of tender age, the agent next addressed himself to those who had arrived at an advanced period of life. He actually applied to the old women (a laugh), and frightened them with the idea that the Irish Catholics were coming over in great numbers to cut all their throats (laughter). These ladies, terrified as they were, did not sign themselves; but their husbands, wrought on by the terrors of their spouses, though they entertained no fear upon the subject, were induced to affix their signatures, to deliver them from the dread of having their throats cut by Irish Papists. The writer of the letter stated, that many persons had signed on being told that the Church was in danger; but he believed none of the canons, nor any well-educated persons, unless some of the election party some of the bricks and mortar, would lend their sanction to such petitions.

Sir T. Lethbridge knew that the petition was signed by magistrates and clergymen, and by many thousands of the most respectable yeo-

man. He believed the paltry means of procuring signatures which had been described, never had been resorted to.

The petition was then laid on the table.

Mr. Brougham rose to submit a proposition to the house, of which he had given notice last night, on presenting a petition from the Catholic Association, subscribed by a large number of Peers, and other persons of distinguished rank, six prelates of the Catholic Church, three archbishops and three bishops, composing together a most important body both in point of rank and fortune, and influence with their Catholic countrymen, who prayed that before the bill now pending was passed, they might be heard by counsel at the bar. In moving that this prayer be granted, he must observe that at almost any other period than the present, upon any ordinary measure, so far from regarding the motion which he had now to make as a grave, urgent, and momentous affair, he should look upon it as a mere matter of course; since upon all ordinary occasions, it was the practice of the house—a practice no less befitting its wisdom than agreeable to the dictates of justice, never to condemn any persons without hearing, or at least never to refuse a hearing to those who demanded it (hear, hear). But from the disposition which he had perceived on the part of those by whom the bill had been brought in, to hurry it through all its stages with an unusual impetuosity, he had reason to believe that his motion, instead of being agreed to as a matter of course, would be contested with as much earnestness as the most controvertible points of the question to which it related. He found, to his astonishment, that those persons were not satisfied with having made up their minds on the statements which had been made on the other side of the house, so many of which had been refuted—many corrected, and many explained away; but that, on the contrary, when those parties who were most deeply concerned in the truth or falsehood of those facts, and against whom charges had been raised out of them, demanded a further inquiry—when, to use the allusion of the hon. member for Westminster, they said to the Parliament, “Strike, but hear!”—then those same persons, who so readily swallowed the facts asserted before them without the slightest proof, were prepared to go still a step further, and to say—“Decide we will; but hear we will not” (hear, hear). He would not disguise his opinion, that no question had ever been so likely to produce a disastrous result, if the fears which he entertained should be realized, and the house should reject the prayer of this petition. Good God! could they close their doors, which were open to all private complaints, comparatively of little moment—could they refuse the request of six millions of people, and in a case like this proceed to convict, to sentence, and to execute, without affording them a trial (cheers)? Was it possible that the house would reject this firm, but humble and reasonable request—that it would refuse to adopt that course, which was at once just and wise; and follow that which must involve the nation in inextricable difficulty? He derived some encouragement from the alarming magnitude of that difficulty; because the more momentous the alternative, the more he was induced to believe it impossible that the house

would venture to encounter it. He could not bring himself to imagine that the house would incur so frightful a responsibility (cheers). The present question stood upon grounds so distinct and clear from those on which the bill was founded, that he trusted that those members who had even supported the bill, might, nevertheless, with equal reason and consistency, support the motion with which he should trouble the house (cheers). If he wished the bill to pass, he should be most anxious to pave the way for it, by hearing the parties at the bar. The more dreadful the consequences might be of adopting such a measure rashly, the more desirous should he be to have the grounds upon which it was founded proved beyond the possibility of question (hear, hear). If, after this, the measure should be carried, its advocates would at least have prevented men from saying that the Catholics had been condemned unheard. They would have guarded themselves against the reproach of having legislated on any other ground than that of indisputable facts. Facts, to be sure, had been stated; but he was authorized to say, that there was a cloud of witnesses to disprove them (cheers). No man could—at least no man ought—to decide upon a measure like this upon general reasoning. It was not a question, the grounds of which were undisputed—like the question of foreign trade, or the consolidation of excise and customs, where any man who was acquainted with the existing statutes and the practice of the courts could form an opinion on the subject—not like that relating to the Court of Chancery; although even there the house had not been asked to conclude without receiving proof. His hon. friend (Mr. J. Williams), although he might have rested his case on the notoriety of the subject—for no man would venture to deny that a greater practical evil than the Court of Chancery had ever existed in the country—did not ask for leave to bring in a bill; but he asked for a committee of inquiry, that the matter might be sifted, and that the party accused might have an opportunity of being heard. The same course had been adopted in other cases, so numerous, and recent, that it was unnecessary to mention them. But if he required an instance in which it was obviously unjust to legislate upon a case which depended wholly upon facts requiring satisfactory proof, it was the present measure, which went the length of suspending the constitution of the country (cheers). The facts which the rt. hon. gent. (Mr. Goulburn) had stated when he introduced the bill, were neither numerous, nor distinguished by the richness or variety of their colours; though their number and variety was quite equal to their correctness (a laugh). Little, however, as was the bulk of proof on which the house was asked to legislate, the Catholics were ready to meet him on that ground. They offered a cloud of evidence, parol and documentary, to disprove every title of that which had been alleged by the rt. hon. gent. It would be too much to refuse such an offer; it would be too much for the house to say “We don’t care a rush for your evidence—we must go on; if we let eight-and-forty hours elapse without passing the bill, the danger which it is intended to check will have grown too large—we don’t want to see your petitions—they haunt us continually—we have ill-treated you enough already; but we will not hear you, because when we shall have listened night after night

to your complaints, and shall have been tortured with the tale of your distresses, as we have resolved to pass this bill, we shall in the end only be obliged to add insult to injury; and although we have determined to injure, we think it as well not to insult you" (cheering). He entertained no doubt that if the house would open its doors to the evidence which he offered, they would shut them for ever upon this bill (cheers). He would give one or two examples, more forcible than all the reasoning he could employ, of the nature of the evidence. The house had not forgotten, in the choice and small collection of facts to which they had been treated, the stress which was laid on the case of Hailey, the soldier. Who would not have supposed, from the statement which had been made of the overwhelming force which the Association had arrayed against this man—of the manner in which that resolution had been promulgated, with a view, as it was concluded, of ensuring the man's conviction by exciting religious prejudice against him, who would not have supposed after this, that Hailey was an Orangeman and a Protestant? How would the house, then, be surprised to hear, that he was a Catholic and an Irishman (hear, hear)—that the Irish Catholic was prosecuted by the Catholic Association for administering unlawful oaths (hear, hear). This example would serve to show the necessity of inquiry before hon. members admitted the existence of dangers which were no more substantial than the statements of the *rt. hon. gent.* Such statements, although they might be calculated to have an impression at Wells, and such places, where there were cathedrals, and schoolmasters, and little boys, were not sufficient for the house to legislate upon. The persons who were the objects of accusation under this bill were prepared to adduce the most undeniable proof. They were willing that the evidence they had to offer should run the gauntlet of the severest cross-examination before it should be received. To quiet the alarms which it was affected to entertain for the Church Establishment, they offered evidence of its being the well-known, decided, deep-rooted feeling, constantly professed, and consistently maintained, as far as acts combined with words could prove consistency, by the most eminent members of the Association, that, whatever was their zeal for the interests of their country—whatever their devotion to the interests of their own religion—how much soever they had smarted under the influence of the Established Church, they nevertheless deprecated and abjured the principle of seeing one tithe-part of one tithe-sheaf, transferred from the Protestant to the Catholic clergy. The topics he had mentioned were only samples of the evidence which the petitioners had ready to produce. This petition was not got up for delay—not even for the purpose of putting off the second reading of the bill. The witnesses were all here—they had arrived in London (cheers), and they might be examined to-morrow if the house should think fit. They consisted of the most important members of the Association. They were men of acknowledged talent—men not less remarkable for their profound knowledge of the professions to which they belonged, than for their general acquirements. They did not come to make speeches to the house; but they asked for an opportunity to clear up their own conduct, which had been aspersed—to explain their motives,

which had been aspersed—to vindicate the Association, which had been aspersed—to rescue their country and their religion, both of which had been aspersed (cheers). He was morally certain that the house, as well as the parties who were interested in this measure, would come out of the inquiry with much more friendly feelings towards each other (hear, hear, hear). The sentiments of the house would be softened towards them; and they, and the whole body of the Irish Catholics whom they represented, would retire from the bar to the bosom of their country deeply penetrated with emotions of affection and gratitude, for the treatment they would have experienced. Unless they were examined the house would say to the people of Ireland, "We dare not hear your remonstrances, we dare not listen to your proofs; but all that we dare to do is to gag you with penal disqualifications" (cheers). He entreated the house to remember that conciliation was the object nearest the heart of every man who had the sense to know, and the feeling to wish for what was most advantageous to the country. What opportunity had ever occurred since the union, in which this desire could be so safely, so easily, so expeditiously accomplished, as that which then presented itself to the house? The petitioners who prayed to be heard at the bar of the house, were persons of the highest talents, and of the greatest influence in their own country. They represented the whole people of Ireland—nay, it was as if the whole people of Ireland were ready to solemnize a compact of conciliation, which should have the effect of establishing the repose of Ireland—he should rather say, the repose of the whole empire. Would they shut their doors against them, and bid them go away, their petition rejected, their evidence unheard? If they did so, they would do that which in all human probability might produce consequences which the youngest among them would not live to see repaired, and which the boldest would not be able to contemplate without dismay (loud cheering). But it was the wish of those who advocated this measure, to go to work by another, and, as they thought, a shorter-way. They said, "We will have nothing to do with the Catholic Association; we will at all events put that down by an act of Parliament, and conciliation is not what we want." This would be the most grievous mistake that ever the house had made. He did not think that the proceedings in 1766, nor those by which America was lost to this country in 1775, were any greater mistakes. They were at least in some degree more excusable, because the representations then made to Parliament, and to which Parliament refused to listen, were urged by one or two individuals of obscure rank, and who were perhaps believed to be mere fanatics. The House of Commons of that day did not know, when they refused to hear Dr. Franklin—now a great and illustrious name—at the bar of the house—when they paid the highest price that had ever then been paid for a sarcastic speech, to have him abused in the Privy Council—that he held in his hands the destiny of that part of their empire. But the house he was now addressing, did know that the men who now prayed to have their evidence received, enjoyed the unlimited esteem and confidence of the Catholics of Ireland. They knew that these men had the confidence of the whole Association; and the Association of all Ireland. The

practicability, therefore, of the conciliation which he recommended was obvious. If the house would adopt the measure recommended, they would either grant the Catholics all they prayed for, and then the conciliation would be perpetual; or they would reject it, but it would be after a kind and conciliatory process, which would bind the Catholics to a rational and dutiful submission. Either alternative might be safely and advantageously adopted; and the least preferable would be a thousand times better than the frightful consequences which must result from rejecting the evidence they tendered. It would be urged that the house must be bound by precedents. He thought he should be able to show that there had been precedents of such a nature; but if not, that would not abate the earnestness with which he should recommend his motion; because a new case made a new precedent, and that which ought to be done was not the less expedient because it was to be done for the first time. America had been lost by precedents. In 1766, the business of the Stamp Act furnished an abundant precedent for the measure which he now urged. A general law had passed the house, applying to no particular class, but falling upon the whole body of the colonists. It was found that this impost was extremely grievous, and petitions were received from the colonies, signed by the people resident, and by individuals in this country, who were payers of the tax on account of their American possessions. Their petitions were referred to a committee of the whole house. This took place in Jan. 1766, when the testimony of Dr. Franklin was offered at the bar of the house, and to which, as it had since passed into a literary document, it was unnecessary farther to allude. The result of the investigation was the repeal of the tax; so that in this case the house not only examined the witnesses offered by the petitioners against an objectionable law, but they repealed the law itself (cheers). The disturbances which took place in America some years subsequent, gave rise to a very different line of conduct. A petition was presented to the House of Commons in 1774, against the two bills relating to the government of Massachusetts's Bay. He would read an extract from that petition, from the journals of that house. The petitioners, alluding to the excesses which had been committed by the inhabitants of Boston, said—"If disturbances have happened in the colonies, they entreat the house to consider the causes which have produced them, among a people hitherto remarkable for their loyalty to the Crown, and affection for this kingdom; no history can show, nor will human nature admit of, an instance of general discontent, but from a general sense of oppression." Upon this occasion, however, as he had said, the house did not adopt the same moderate and rational proceeding as in 1766. The same arguments were used then as had been and would be urged on the present occasion—that this was a general measure—that it was a matter of state policy. In the House of Lords, a protest was signed by men, than whom there had been none of higher reputation in any period of this country's history, in either house of Parliament; there were, among others less illustrious, the names of Camden, Portland, Fitzwilliam, and Rockingham: and the terms in which they recorded their dissent were worthy of being remembered. The prayer of the petitioners was then, as now, that before

"any resolution should be taken against them, they might be heard." Their lordships protested against the refusal to grant this prayer, because it was "a proceeding of the most unwarrantable nature, and directly subversive of the most sacred rights of the subject;" and they added, "We protest, therefore, against the refusal to suffer such petitions to be presented, and we thus clear ourselves of the disgrace and mischief which must attend this unconstitutional, indecent, and improvident proceeding." Such was the opinion of the great men of that day, with respect to a measure somewhat similar in its nature, as far as it had yet proceeded, but here he hoped to God the similarity might end (cheers). Dr. Franklin, in one of his letters written about this time, said to his countrymen, "Your growing wealth will soon make your friendship valuable, and enmity feared, and you will find that you will be treated by other nations not only with justice but with kindness." There is an Italian proverb, "Make yourselves sheep and the wolves will eat you." The parallel might be applied to Ireland, and it would be wise for England at least not to risk a second time the loss of such advantages as those which she had once wantonly thrown away. The Governor of Massachusetts, who was in London about the same time, in writing to one of his friends in America, described the House of Lords, where he had been below the bar during a debate in which Lord Chatham proposed a motion, the object of which would have been to conciliate America, but without success. The Governor of Massachusetts said to his correspondent, "the greater part of the Peers were so ignorant, that I could not but form a very mean opinion of their abilities; and that this country should claim the sovereignty over three millions of people (not six millions) appears to me the greatest of all absurdities, since those who legislate have scarcely discretion enough to govern a herd of swine" (laughter). This was homely language, but it was hardly undeserved. The representations of those who would have advised a more rational and conciliatory course were disregarded. They were called fanatics, and accused of countenancing rebels. The danger which threatened the country was despised; the consequence was, that the petition was rejected, the evidence was not admitted, and the colonies of America were lost to this country for ever! The consequence was, that a struggle ensued between the mother country and her colonies, which, after thousands of lives had been lost, and a hundred millions added to our debt, ended in favour of the colonies, and thus—to use the words of the hon. member for Westminster, on a former night—its brightest jewel was plucked from the British crown. He rejoiced to see so magnificent a spectacle exhibited to the world on the other side of the Atlantic—three millions of men struggling against oppression and surmounting it. He rejoiced to think that the United States had increased and prospered with an increase and prosperity, till they had shown us one of the most magnificent scenes which any age of the world had ever displayed—that of a great community of free men governing themselves cheaply, and uniting, for the first time in the history of republics, great justice with magnanimity, and a delicate and even affecting feeling of gratitude towards their earliest deliverers: he alluded to the late touching and admirable spectacle exhibited on the arrival of La Fayette

in America, which was paralleled by nothing in ancient or modern times, and sufficient to wipe away for ever the stain which was supposed to attach to the name of republic on account of the ingratitude of those of ancient days to their defenders. The youngest member must recollect that counsel had been heard, and witnesses examined in cases which would bear an exact comparison with the present. He himself, before he had the honour of being, as he might say, introduced to the acquaintance of the house, had been occupied for three or four weeks in examining witnesses at the bar on the subject of the orders in council. The knowledge which he acquired in that way was not without its use three or four years after, when he succeeded in abolishing that abominable system of policy. So, on the present occasion, he knew that the proceedings which he proposed, would, if it should be allowed, have the effect of throwing much light on the subject of Ireland. It would be a glorious exhibition of sympathy—the house representing the people of England, and the witnesses at the bar the discontent of Ireland. On a former occasion the house was about to pass a bill which affected the interests of the hawkers and pedlars; whereupon they, with a force and elegance of expression, for which, if he had not seen it, he could not have given credit to that ingenious and itinerant body, addressed the house in the following language:—"We have heard with the utmost astonishment and dismay that a bill has been introduced into your hon. house for our utter extermination, unheard, untried, uncondemned. We claim it as our birth-right to be confronted with our accusers, and heard by counsel and witnesses at your bar!" In June, 1786, the prayer of the hawkers and pedlars was complied with, and counsel and evidence were heard at the bar. Let the house award to the Catholics of Ireland the same justice that they had meted to the hawkers and pedlars, and he would be content. Whether the bill were necessary or not, the passing or rejecting of it ought to be founded on evidence at the bar. Above all, he would have the house to recollect, that if they brought to their bar witnesses who would represent the interests of Ireland, they would, whether the bill should pass or not, lay the foundation of a lasting, permanent, and in every respect unexceptionable concession to the people of Ireland.

Mr. C. W. Wynn objected to the motion, because it was inconsistent with the general usage of parliament. The learned gent. had supposed that the opposition which was likely to be made to his motion proceeded from a disposition to press the bill with unusual expedition. Such a charge was made with an ill grace, after four nights had been consumed in debating—a circumstance which he believed had never occurred before in parliamentary history. It was said that the bill condemned the Catholic body—Although, in truth, its object was to put down all associations which, under the garb of religion, were in fact political bodies. It was said, that unless the prayer of the petition should be acceded to, the Catholics would have nobody to represent them in that house. That was not the case. There were many members of that house who would represent the Catholics and speak their sentiments. He would endeavour to quote some precedents for guiding the conduct of the house on the present occasion. In 1786, a bill was introduced for regulating the duration of

the poll at elections. The then member for Westminster presented a petition from his constituents, praying that they might be heard by counsel against the measure. Mr. Pitt opposed the prayer of the petition, on the ground that there was nothing in the bill which affected Westminster any more than any other town or borough in the kingdom. The house divided on the question, and the great majority of the house decided against it. He was the more surprised at the learned gent.'s line of argument, as he recollected that four years ago, when he (Mr. Wynn) presented a petition from a most respectable individual, begging that he might be heard at the bar, as the next friend to a body of negroes, on the ground that the negroes were in the situation of minors, and could not act for themselves, against a bill, which had been introduced, to remove them from an island, where they had been born, and long resided, the learned member objected, that if the petition should be granted, the house would next have a person coming forward as next friend to the people of England. With regard to the soldier's case, it had not, he believed, been stated on his side of the house, whether the man was a Protestant or a Catholic (hear, hear). All that had been contended for was, that it was subversive of justice, that the case of any individual should be prejudged before his trial (hear, hear). He required no other evidence to induce him to vote for the bill than what he found in the declared and acknowledged acts of the Association.

Sir J. Yorke said, that if the learned member could persuade him, that by bringing the members of the Association to the bar, the two countries would shake hands so as never to part (a laugh), he would surrender all his feelings on the subject. But he had heard precisely the same threats of separation and invasion, for the last twenty-five years. He believed, however, that when the bill before the house should receive the sanction of Parliament, the learned gent.'s friends would sit down as quietly as he himself had just now done (a laugh). He remembered that during the rebellion in 1798, when he was cruising off the coast of Ireland, to prevent supplies being landed, he observed the Emerald Isle from Cape Clear, and he happened to say to his master, it was a pity that the potatoe, the bread of Ireland, should always keep her in a bad state. To which the master replied, "that England would never get any good of her till she had been twenty-four hours under water." That, he said, would keep her cool, and then she would see how much old England had done for her. What was the fact? In financial matters the greatest consideration was paid to Ireland, and only one-seventeenth part of the whole revenue was furnished by her. When the people of Ireland were recently in a state of starvation, the people of England generously put their hands in their pockets, and subscribed 500,000*l.* for their relief. Was Parliament to have the old story about "six millions of their fellow-subjects" dinned into their ears for ever? It was said, that granting the Catholic question would content the people of Ireland. The people of Ireland did not care two bad potatoes about the matter (laughter). If Government declared that the measure which they had introduced was necessary, he would support it, let the consequences be what they might.

Mr. Hobhouse thought it was impossible that the house could commit such an act of injustice

as to refuse to hear the Association through their counsel. The rt. hon. gent. (Mr. Wynn) had furnished himself with precedents to oppose the motion, as the right hon. Sec. for Ireland had with cases to support the bill. He knew not better how to characterise the precedents than by declaring that they were as good as the cases, and neither was good for any thing—*Et tu vitula dignus et hic*. Ministers seemed to have determined beforehand to deal with the Association in a particular way, and not to allow any circumstances to change their determination. A proof of this was to be found in the manner in which Lord Liverpool had refused to hold any communication with Mr. Eneas M'Donnell, who had requested an interview on the subject of the Catholic Association, because, forsooth, he was Secretary to the Association. His lordship's conduct reminded him of M. Vertot, who wrote the history of the sieges of Rhodes. A friend, to whom he had shown the work, called upon him to say that he could furnish him with several facts, and moreover point out sundry inaccuracies in the manuscript. The Abbé replied, "*Je n'en doute point, et j'en suis fâché, mais que voulez-vous ? je l'ai fait.*" This was plainly a case in which counsel ought to be heard; and he trusted that the house would yet reject a measure so fraught with danger and difficulty.

The Solicitor-General was content to look at the question as to hearing counsel upon the measure, in this way—had the house already before it, or had it not, materials sufficient to warrant its coming to a decision? He thought that it had amply; and that without resorting to a single fact which was not admitted by gentlemen on the other side. First, it was not denied that the Association represented the people of Ireland; next, it was admitted, that this Association, upon its own showing, was formed for the redress of all grievances, whether local or general, which affected the Irish people. Here then was a body of delegates—though not formally so—meeting for the redress of grievances. In fact, the printed resolutions of the Association, which had been ventilated through Ireland (a laugh), were decisive proof of this fact. The Association took upon itself, farther, a direct financial character; and whether its levies were made by taxes or in the shape of a voluntary contribution, he considered to be a flimsy distinction. It was either illegal, or led to illegality. According to *Rex v. Dolby*, no person contributing to the funds of the Association could sit as a juror, or be examined as a witness on any trial in which that Association was concerned. Then, as almost every Catholic in Ireland was a subscriber to the rent, scarcely one in a hundred could be in a condition either to sit as a juror, or to give evidence as a witness, in any such cause. If counter-associations arose on the part of the Protestants, disabilities on their part would be equally created, until the thing would end in a stoppage of all justice throughout the country. Whether the subscription paid to this Association were voluntary or compelled, it was illegal. But it was said to be voluntary: let the house see how it was collected. A register was kept of those who gave, and of those who refused to give; and this register was exhibited at every general meeting. Those who did not give, it would be remembered, the priest who went round had power to excommunicate. But if there were no fear of offending the priests by a refusal to contribute,

was there no dislike to be made a marked character—to be put down in the black book? He should be inclined to say of this voluntary contribution, what Dr. Johnson had said of the *congé d'être*, in reply to some one who observed, that it was not an order to the Dean and Chapter to elect, but only a recommendation. "Recommendation!" said that eminent person—"Yes, in the same sense, as when you threw a man out of a two pair of stairs window, and recommended him to fall to the ground" (a laugh). But suppose the contributions voluntary: such in general, were not lawful, without a licence from the Crown. In the time of Atterbury, who was known to have friendships at the court of St. Germain, certain sums of money had been collected by the scheme of a charity sermon, and the bishop was believed to have disposed of them in that quarter. Now, for preaching that charity sermon a clergyman had been prosecuted; and the judge told the jury that this practice was dangerous, and that it was an invasion of the prerogative of the Crown and of the Legislature. Thus, in fact, it was illegal to raise money by contribution in a church, even for the purpose of charity, except by licence from the crown. And what was this law but merely reasonable? The Crown had not the power of the purse against the people; and therefore it was unconstitutional that the people should have the power of the purse against the Crown. He had gone back to the time of Atterbury for this case; but the principle had been acknowledged much later. Mr. Sheridan, in 1794, when the question arose, whether the Crown could receive a voluntary contribution—had been the first to declare such a course unconstitutional. That money was to have been paid into the hands of ministers; it was for a purpose which Parliament had already recognized—the furnishing equipment for the war; and yet Mr. Sheridan had said, "Compulsory gifts are one offence, and gifts however free, are another; but one course, no less than the other, amounts to a breach of the privilege of this house; and therefore I think that the Serjeant at arms ought to be sent to take the chairman of any meeting attempting such a course into custody." But to return to the petition before the house. The prayer was to be heard, not merely by counsel but by witnesses. They would call witnesses to show that, since the commencement of the Association, it had never done any act, or made any declaration, calculated to excite alarm or exasperate animosity. What, then, these witnesses were to give evidence, not as to facts, but as to intentions! They were to furnish the house with their opinions, not with accounts of that which actually had been done! He wanted nothing of this kind—no arguments and deductions. There might be thirty witnesses, or twice thirty, for aught he knew. No doubt thirty witnesses might be found to say, that to *hate* a Protestant meant to *love* a Protestant, and that to adjure one party by the hatred they bore another was not to excite animosities (cheers). Hon. gentlemen talked of precedent in the case; but what counsel had been waited for three years ago, when a bill to limit the establishment of societies in Ireland had been passed? It was wild to talk of privileges by the letter; by the bill of rights, it was said that the subjects of England might arm; but who would have thought of calling witnesses,



some years back, when the seditious meetings' bills were under discussion, to show that bodies of men might assemble to practise military exercise? Now, he had assumed nothing as a fact, which was denied by the supporters of the Association. He admitted that witnesses and counsel had frequently been heard in cases depending upon general principles; but that had always been in cases where the house had not facts sufficient to legislate upon before it. In conclusion, he opposed the hearing of counsel in the present case, as an unnecessary consumption of time (cheers).

Mr. *Spring Rice* said, that the evidence tendered to the house was widely different from evidence of impression and opinion. Every paper, every document, which the Association had ever received or issued since its formation, was now within the reach of the house; and was it possible that hon. members would proceed upon the worst evidence when the best was in their power (loud cheers)? For precedent in a case like this he did not care; the measure contemplated was wholly unprecedented; but precedent he had for hearing counsel, and that of no slight authority, as it related to a Catholic case in the reign of King Anne (much laughing). In the year 1698 an act had been introduced in the Irish parliament for "providing for the greater security of his Majesty's person and Government." This might be called a pretty general measure, but a provision was inserted which, the Catholics thought, affected them, and counsel had been heard against it, upon petition, before it was passed. In the year 1703, another bill had been brought in "to prevent the further growth of Popery;" and against that bill, as well as the former, counsel had been heard. Again, in the year 1715, a bill had been introduced, prescribing the oath of supremacy to be taken in certain new cases. Against that bill counsel were heard, and the clause complained of was accordingly expunged (loud cheers). He cautioned the house against the refusal of the present motion. If it were refused, the Irish would have just cause to complain that they were treated worse than their ancestors had been in the reigns of King William and Queen Anne (hear, hear). It would appear from the speech of the rt. hon. Sec. (Canning), that the great obstacles with which the Catholic question had now to struggle, did not lie in the opposition of a noble and learned person in another place, but in the resolutions which had been proposed respecting church property in Ireland by the member for Aberdeen. Whatever might have been the merits of those resolutions, the Catholics had nothing to do with them. The Catholics were accused of having supported the proposition about the reformation of the tithe system in Ireland. When that question arose, he had found it necessary, in the discharge of his duty, to send round the resolutions to Catholic as well as Protestant Peers. Amongst others he had sent them to Lord Kenmare, but he refused to sign, alleging, that as a Catholic he was unwilling to interfere with the tithe system of the Established Church. This feeling was not confined to Lord Kenmare; it was, he had no doubt, general with the sound part of the Catholic population. It was asked some time back, in a committee above stairs, when a Catholic priest was under examination, whether, if the

Catholic question were carried, the Catholic priesthood would look for a monopoly, or for any part of the tithe property? The answer was, that, though undoubtedly they were not indifferent to some provision, they were far from thinking of any provision from the tithes; and after the example of the effects of that system in the other church, they could not believe that that source of emolument would add to their comfort, or to their respectability among the people. He concluded, by reminding the house, that the whole people of Ireland were now at their bar praying to be heard; and he added, that if their prayer were refused, even the oldest member amongst them might live to repent it (cheers).

Mr. *Peel* said, that without going into an examination of what was done in the case of the provinces of America, or enquiring into the numbers and power of the Catholics—topics which had been referred to in no very discreet terms—he would content himself with asking whether this was a question consistent with the usage of Parliament, or required as an act of justice to the Catholics? If both were answered in the affirmative, he would consent to the proposition, but if not, he would reject it, with all its consequences. With respect to precedents, if he found that the uniform stream of parliamentary usage were against the present motion, he could not repugn the general principle on which Parliament had been wont to act. Now he conceived the principle to be, that Parliament would hear counsel in all cases where the private or personal rights of individuals were to be interfered with in any general measure. In such case they acted as a court of judicature, where all parties interested in the case were allowed to be heard; and he apprehended that all the precedents quoted on the other side fell within this description. The case of the hawkers and pedlars, with which the hon. member opposite had wound up his climax, was within this rule. They claimed to be heard against a bill, not as subjecting them to penalties in common with others, but as imposing a peculiar penalty upon them alone; they claimed it in conformity with the rule he had cited, and they were accordingly heard at the bar. It was plain, therefore, that this case was not at all in point. But if the house agreed to hear counsel and witnesses on the present question, what bill could be introduced, on which some parties would not claim the same privilege? The Habeas Corpus Suspension bill had been passed without any such claim; but if the present motion were carried, even on such a measure parties would claim to be heard. The alien act had been mentioned; but that bill had been passed, without any such claim being recognized on the part of individuals; and so, in fact, had all the general measures of the last ten years. If the claim were admitted, no public measure upon which any individuals might differ from the opinion of Parliament, could hereafter pass without hearing counsel at the bar. It was well known that a counsel never thought of any extended interests or principles; he looked only to the advantage of his client. He could cite a memorable illustration of this in the instance of the learned gent., who, on the trial of the Queen, had emphatically declared, that, be the consequences what they might to the country, he could look

to no other interests than those of his client. He did not mean to deny the justice of that doctrine, but he wished the house to see what would be its effect in a case like this. The whole privilege of general discussion would be cut up, and gentlemen not accustomed to professional habits of speaking, would be completely overborne by counsel. He remembered that last session, when the Marine Insurance bill was before the house, there were not fewer than six wigs at one time at their bar; and if so limited an interest could send six, what numbers might not be sent by all the Catholics of Ireland. He recollected on that occasion, that when four of the learned counsel had exhausted themselves in addressing the house, an imploring look was cast towards the remaining two, as if to entreat their silence; but the interests of their clients was paramount, and the look was cast in vain. When the bill before alluded to, for authorizing the removal of some West India slaves from one island to another was before the house, a benevolent person wished to have counsel heard, on the ground that the proposed removal was wholly against the wills of the negroes. On that occasion, the learned gent. (Mr. Brougham) had stated, that if Mr. Stephen were heard as next of kin to the blacks, some other counsel, on some future question, would pray to be heard, as next of kin to the whole people of England—though if the principle could be admitted in any case, that was one in which an exception might be made: yet so persuaded was he, after hearing the learned gent.'s eloquent appeal, of the bad consequences of such a precedent, that he voted against it (hear, hear). He could not be awayed on this occasion by any fear that the consequences of refusing this prayer would lead to any event as had happened with respect to the Provinces of North America. He had too good an opinion of the Catholics to anticipate any such result; and he was surprised that even a hint of the kind should have come from their defenders. Could he suspect them of such intentions, his objections to the Catholic claims would be increased, ten-fold. Then leaving the question of precedent, he would come to the only other ground on which this motion could rest—that of supplying better evidence than had been afforded as a basis for the measure against which the Catholics claimed to be heard. It was stated that we had no instance of such a bill having been introduced without previous communication from the Crown, or documents to show its necessity being laid before a committee of the house. This was not the fact. The Habeas Corpus Act had been suspended more than once, without any such preliminaries. The house, in those and other instances, had acted upon the notoriety of the facts. When the Convention Act passed the Irish Parliament, in 1793, there was no communication from Government, no papers laid before the house, no committee of inquiry. It was true, the Lords had a committee; but it was for another purpose; and in their report, they noticed the existence and the dangerous tendency of assemblies, acting by branch committees, and collecting voluntary subscriptions; and on this report, and the notoriety of the facts to which it alluded, the Parliament proceeded. In the same way it passed an act in 1795, for the more effect-

tual suppression of unlawful assemblies. Without waiting for, or requiring any such evidence, Parliament did then, what he hoped it would do now; it legislated on the notoriety of the facts. There were on the present occasion no green-bags—no secret or select committees, which on a former occasion had been so violently condemned; but ministers had come forward, acting on their own responsibility, and were now blamed for adopting that conduct which they had before been blamed for not adopting. The measure was introduced for the purpose of putting down secret societies of every kind (cheers from the Opposition). He understood the nature of those cheers. They insinuated that he would support societies on one side; and now, for an appearance of consistency, would agree to a measure which affected to put them down in both. He had no such feeling. He had from the first expressed his dislike of all party associations; and two years ago, when a measure was introduced for putting down the Orange societies, he gave it his support—though he must say that he did not then hear any of the constitutional scruples which were now avowed on the other side of the house (hear, hear). The associations then attacked were not much in favour with gentlemen opposite, which perhaps would account for their silence (hear, hear). The act which was then passed, had been grounded on notoriety alone; and he apprehended, that if Alderman King, who had appeared at their bar on one occasion, had come forward, and avowed himself as the deputy grand master of the Orange lodges, and had prayed to be heard against the measure, that his prayer would have met with but a cold reception from gentlemen opposite (cheers). If this were a condemnatory measure, and were to have a retro-active effect, then, indeed, the prayer of the petitioners might be reasonably heard, and allowed; but it was not intended to have any such effect, although the learned gent. had called it a condemnatory bill, in order to justify his motion. To come to the alleged necessity of the motion, for the purpose of supplying evidence not already before the house, he would contend that there was evidence enough to satisfy them of the injurious tendency of this Association. Without taking the intemperate speeches of one or more members of this body, he could demonstrate their pernicious tendency from one of their latest acts, a petition of the 17th of Feb. last. It was there stated that "the Catholics of Ireland felt the necessity of bestirring themselves in their own affairs, and it was deemed right to enter into an association to promote the general interest of their body, and to bring frequently under the notice of Parliament their grievances, and the delays in redressing them." Was not that like an avowal of their representative power (no, no, from the Opposition side; hear, hear! from the Ministerial)? The petition concluded with a prayer "that no measure should be adopted against the Catholic Association, or against any portion of the Catholic people of Ireland, without first affording the petitioners a full opportunity of vindicating their principles and conduct at the bar of the house, and to be heard, if necessary, as well by witnesses, as by their counsel." That passage, he maintained, amounted to an admission of their representative capacity at

once (no, no, and hear, hear). He did not admit the distinction as to direct and virtual representation. In publicly addressing Parliament for the redress of grievances, they asserted at least an admission of their existence as a body, and the house should never forget that they were a body who had assembled twenty times since the month of October. They were also a body who appointed committees of finance, grievances, and education. Was it to be allowed that men should thus usurp the privilege and practice of a Parliament, and these men forming an assembly, of which any man might become a member who paid his guinea. The petitioners denied the charge of levying contributions. He did not mean to say that they could legally enforce the payment of those contributions, but there was a moral as well as a legal influence, and that they did not fail to take advantage of. The names of subscribers were publicly read at the parochial meetings. Was it no exercise of their power that the names of those who did not contribute should be placed in their black book, as a learned friend had called it? But be the subscriptions voluntary, or involuntary, was it to be borne that funds should be thus collected for the purpose of securing the press—far prosecuting all who might injure Catholics, and for opposing Orangemen? Could an association with such objects be carried on without irritating the public mind in Ireland? He would not put his own construction on their objects: let their own public document speak for them. The Committee of the Association appointed to consider the necessity of raising subscriptions, state in their report, "that it was necessary to have pecuniary resources, to animate and give effect to the energies of the Irish people." Now, these resolutions were followed by an act, which was in itself calculated to excite the strongest suspicion, and to awaken feelings of alarm, which it might be difficult to allay. On the very same day that they declared the necessity of raising a supply of 40,000*l.* "to animate the energies of the Irish people"—on the same day that those people were called upon "by the hate they bore to Orangemen," to forward the views of the Association, they unanimously elected into their body, Mr. Hamilton Rowan. In the letter of the secretary communicating that address, he spoke of his election having been voted, with an enthusiasm and unanimity seldom witnessed: that on the mention of his beloved and honoured name, it was hailed with the applause which was at once the testimony to, and the reward of a life which had been devoted to the service of his country. With respect to Mr. Rowan, a secret committee of the Irish House of Lords which sat in the year 1799, stated in their report, that in April 1794, a Mr. Jackson, an English clergyman, came over to Ireland from the Directory of France, to arrange the plan of a French invasion of that country. Mr. Jackson stated that he met, and had several interviews and conversations on the subject of his mission with Mr. Hamilton Rowan, a principal leader of the United Irishmen, who had since fled the country, and had been attainted of high treason. He had also met a Mr. Wolfe Tone, who had escaped, and was re-taken on board a French ship; and a Mr. Lewins, a representative of the United Irishmen to the

French Directory. Now he would ask, if the sentiments conveyed in the address to Mr. Rowan were supposed to prevail amongst the six millions of Irish Catholics, what was there which could convince the Protestants of Ireland or of England that there was no danger to be apprehended from a body who, on the same day that they had recommended the necessity of a general subscription—on the same day that they had spoken of the hatred they bore to Orangemen, had voted such an address to a convicted traitor (loud cheers)? Was it at all an exaggeration to call such an act suspicious, or would the learned member (Sir J. M'Intosh), the public professor of a public institution, attempt to justify such a proceeding in aid of civil liberty? The house were told of the great numbers and respectability of the Association. It was said to consist of "Catholic prelates, peers, and baronets—of many Protestants of noble families and great possessions—of many distinguished members of high and learned professions—of commercial men of great wealth and character—of country gentlemen, farmers, traders and substantial citizens." He would not deny this; but he would contend, that if it proved any thing, it proved too much; the greater the influence, the more mischievous the proceedings of such a body were like to be. It was not in any private surmises of his own, but in the recorded acts of the Association, that he looked for grounds for passing this bill; and feeling that he was acting upon strictly parliamentary grounds, he should, with that confidence which the sense of right always inspired, give his vote most conscientiously against hearing the petitioners at the bar (loud cheering).

Mr. C. H. Hutchinson protested against the practice of bringing the conduct of individuals, who were not present to defend themselves, under the consideration of Parliament, and was grieved at the *rt. hon. Secretary's* allusion to the conduct of Mr. Rowan. Now he happened to be in Dublin at the time when Mr. Rowan was obliged to leave the country; and he could say, in the language of the Association, that no man who left Ireland was ever more regretted and lamented (hear, hear). Ireland possessed no better man; no man more respected for the integrity of his public principles, and the virtues of his private life. He had not the honour of his acquaintance; but he knew that the Association spoke the thoughts of all Ireland when it used those terms on the occasion of Mr. Rowan's election, which had been so strongly reprobated (hear, hear). It was impossible for him, who had lived in Ireland during her days of misfortune, to answer the assertions of the *rt. hon. Sec.* without feelings of pain and regret. He was not about to justify those who had been condemned by the law; but he was bound to inform the *rt. hon. Sec.* that in 1791 and 1793 some of the fairest names in Ireland were enrolled among the United Irishmen (hear, hear). The object which they had in view was to get rid of that odious system which had so long oppressed and degraded Ireland, and which had recently disappeared in part under the present administration—that system which had occasioned, first of all, the rebellion of 1798, and subsequently, the disgraceful Union of 1801. The men who had failed to overthrow that hideous system, which ministers had at last themselves abandoned, were now branded as rebels and traitors, though they would have been

hailed, if successful, as patriots and benefactors to their country. Hampden, and Russell, and Sydney, were traitors, till the cause of liberty flourished in England; and if despotism had prevailed, instead of freedom, they would have been so to the present day. The *rt. hon. Sec.* had taunted his side of the house with inconsistency in declaring against the bill, after they had received with acclamations the bill against the Orange Societies. But those societies had been declared illegal, not only by the Attorney-General, but by the Chief Justice of Ireland; whereas the Association was proved not to be illegal by new laws being declared necessary to put it down (hear, hear). The Orange Societies proscribed and oppressed whole classes, whilst the Association confined itself to holding forth the arm of the law in defence of those whom the Orange Societies were daily prosecuting (hear, hear). The comparison between the two societies was a comparison between light and shade. How could the house, with any show of reason, refuse to grant the prayer of these petitioners? "Your ministers," they say, "have grossly libelled our motives and conduct in the speech which they placed in the mouth of his Majesty; upon that false and scandalous libel they have now introduced a bill of pains and penalties against us; in the name of justice, before you gag us entirely, we claim to be heard against this bill, which we say is not founded in unintentional mistake, but in a deliberate falsehood" (hear, hear). How the liberal part of the cabinet could refuse a request of this nature, he could not see; he could only say that by doing so, they were virtually making war against the Catholics of Ireland (hear, hear), and were allowing their illiberal colleagues to drag them through the dirt in a manner which excited the compassion even of their bitterest enemies (hear, hear). The Orange faction had gained another triumph; and, headed by the *rt. hon. Sec.* (Peel), who was so infatuated by his prejudices as to become at once their representative and leader, had carried into full effect the various objects which the *rt. hon. gent.* had vainly attempted whilst he held office under the government of Ireland (cheers). The *rt. hon. gent.* had told them, in very confident language, that the Protestant feeling in Ireland was hostile to Catholic Emancipation; he denied it with equal confidence. The Orange Associations were opposed to it; but in spite of all the noise made by their representatives in that house, and all the eulogies which were bestowed upon them by some infatuated persons, they formed but the fag-end of the Protestant population of Ireland. He cautioned ministers as to what they were doing. Seven millions of Catholics were then at their bar; and if the house listened to their prayers, it might establish on a permanent foundation the security of the empire (hear, hear). He therefore conjured it to allow them to state their case. If they failed in establishing it, they would at least have the satisfaction of knowing that they had not been condemned unheard. At any rate, let them not be driven away with contempt or insult (hear, hear). Let the house remember the consequences which had befallen the country after the American commissioners had been turned with insolence from their bar. Let it not again have the humiliation of sending commissioners to supplicate those whom it had insulted. It had sent Lord Carlisle, Mr. Eden, and

Mr. Clinton, to conciliate America, when it was too late; let it not again have to undergo a similar degradation proceeding from similar misconduct. It was time for the representatives of Ireland to speak out. He would therefore bid the *rt. hon. gent.* beware how he drove insulted millions to madness (great cheering). The misfortunes of Ireland had hitherto arisen from her internal dissensions; there was, however, at the present moment, too much good sense in all classes of her people, no matter whether they were Catholics, Protestants, or Presbyterians, to permit those dissensions to continue any longer to her disadvantage. Let, therefore, the *rt. hon. gent.* beware lest his infatuated measures should lead the whole empire to ruin; for if the hour of battle should arrive, which he prayed God in his mercy to prevent, he might find arrayed against him not only the Catholic millions of Ireland, but the bulk of its Protestant population. He had addressed the house in the language of supplication (hear, hear); but as that language might not be listened to, he had also addressed it in the firm and candid language which a free man ought to speak (great cheering). He trusted that the time was not far distant, when it would do justice to his Catholic countrymen, and as the first step to that measure, he implored it to call the petitioners to the bar, and hear the justification which they offered (great cheering).

Mr. Peel begged leave to say that he had never applied any expression to the Catholics of Ireland, strenuously as he had always opposed their claims, which could justify the *hon. member* in insinuating that he had insulted them (hear, hear.)

Mr. C. Butler Clarke declared himself the friend of Catholic Emancipation, but hostile to the Association. Without mincing the matter, he believed the Association to be the only society aimed at by this bill, and he should, therefore, give it his support.

Sir John Sebright would give his support to this bill, because he felt that some measure was necessary to put down the Association. He felt, however, ashamed that the house should, at that time of day, be discussing the means of putting down an Association which could have no existence, had the Government followed a manly and decisive policy. But for their own prejudices, and the cruelty with which they had so long treated the Catholics, this Association could never have acquired its present power. Though he was inclined to support the bill, he was of opinion that the Catholics ought to be heard at the bar of the house (loud cries of hear!). Much as he disapproved of the Catholic Association, he could not say that the Catholics of Ireland had done any thing of which men insulted, degraded, and oppressed as they were, ought to be ashamed. They had been told that this country was ill-disposed to the cause of Emancipation. He did not believe that to be the case; but even if it were, there were questions on which it was incumbent on the house to consult not so much the prejudices as the interests of the country, and to consider not so much what it wished as what its safety imperiously required. He should vote for the learned gentleman's motion.

Mr. Scarlett, on a former night, when the right *hon. Sec.* (Peel) had called upon him to justify his consistency in having spoken against the Constitutional Association, and also against this

bill, he had thought it unnecessary to point out the distinction between the two cases, as it was almost self-evident to any man who had paid the slightest attention to the first principles of the constitution. He had said that the Constitutional Association might be legal, but that he was of opinion that it was not consistent with the constitutional law of the country. It was not framed for prosecuting private injuries against individuals, but for prosecuting political offences; it usurped the functions of the Attorney-General, and was therefore in its very constitution a libel upon the Government. It could not be unknown to Parliament that one of the most important functions of Government was to know what offences it ought to select for punishment, and what it ought to abandon; and for any association to assume to themselves such a power was as unconstitutional in theory as it was insolent and arrogant in practice. He would allow that injuries which related to individuals might be safely prosecuted either by individuals or by the state; but with regard to such offences as libel and sedition, which did not affect the rights of individuals so much as the tranquillity of the state, it appeared to him that such offences ought not to be prosecuted by individuals, but by the state. He trusted that they would permit him to remark, that there were many members of the Constitutional Association of high rank and unblemished character, for whom he entertained the most sincere respect; but he had no doubt that those parties were the unsuspecting dupes of four or five designing persons, who took advantage of their public spirit to institute a series of prosecutions which were, in fact, good jobs for themselves. He only knew of two cases in which the Catholic Association had instituted prosecutions, and they were the case of murder, and the case of the soldier, which had been so often alluded to. Now what man would pretend to say that there was any similarity between these offences and those selected for punishment by the Constitutional Association (hear, hear)? It had, however, been stated, that from the nature of its constitution, all the prosecutions of the Catholic Association were political. He was not inclined to assent to that proposition; but he would say this, that if there were any class of men who thought themselves systematically oppressed by another class, it was not only natural but right that they should join to obtain justice for themselves and their associates. It might be that justice was properly administered in Ireland; but from all that he had heard upon the subject, he had come to a different conclusion. He could not blame men for uniting, under such circumstances, to obtain an impartial administration of the law. Those who had so united now claimed to be heard at their bar, in order that they might clear their characters from the charges which they said had unjustly been made against them. Should they be heard or should they not? The speech of his learned friend, who had brought forward their claim to be heard, was so urgent and impressive, that unless an answer were given to it, he should be for the affirmative of the question. If he were to take his notions of the Catholic Association from the speech of the right hon. Sec. he certainly might come to the rt. hon. Sec.'s conclusion; but why was he to take that statement to be correct, when the rt. hon. gent. not only did not offer any evidence to establish it, but opposed the

admission of evidence to disprove it (hear, hear)? How did he know that the papers and pamphlets which the right hon. Sec. had quoted were the papers and pamphlets of this Association? He heard the members of it offering to disprove by witnesses the charges made against them—how did he know that they might not be prepared to show that part of the rt. hon. Sec.'s assertions regarding them were unfounded, and that the remainder admitted of such explanation as deprived them of the greater part of their offensive character (hear, hear)? It was said, however, that notoriety was a fit ground for legislating regarding this Association. This was to him a novel and extraordinary doctrine. He had heard it said that notoriety was a fit ground for inquiry; but he had never heard that it was a fit ground for the enactment of a new penal law. In all former cases, laws of this coercive nature had been preceded by statements on which the house could place some reliance; but in the present case no such statement had been made. It might, indeed, be made hereafter; but in the absence of all such information, he thought that the petitioners, who were men of high honour and untarnished character, had a right to demand a hearing, especially as they said that their views and objects had been grossly and scandalously libelled (hear, hear). He had not yet heard that the petitioners had sought to obtain any illegal aim; indeed, how could the object which they sought to obtain be illegal, after it had obtained more than once the approbation of majorities of that house? If their object were to obtain for themselves and their descendants the same rights and privileges that were enjoyed by their fellow-countrymen, it was not only right, but laudable (hear, hear). To refuse the means of showing that this was their object, and nothing else, was not merely a want of conciliation, but a denial of common justice. He should therefore vote for the motion of his learned friend (hear, hear).

The Attorney-General said, that he rose in consequence of a remark of his learned friend (Mr. Scarlett) concerning the charge against the Association of an improper interference with the administration of public justice. His learned friend had misapprehended the argument of the rt. hon. Sec. (Peel), for his rt. hon. friend had thrown overboard all disputed facts about this Association, and had rested his argument entirely upon documents which it had openly and repeatedly acknowledged. With regard to the Constitutional Association, he would merely remind the house, that his learned friend had contended that all prosecutions by associations of individuals were illegal. Probably his learned friend had since that time altered his opinion. For his own part he had always thought that the Constitutional Association, though perfectly legal, was still very impolitic. Let the house, however, compare the prosecutions of the Constitutional with those of the Catholic Association. The former, which consisted of many respectable persons, intrusted their funds to the care of one or two obscure individuals, so that parties who were accused by them congratulated themselves at being so prosecuted, because such was the odium into which their prosecutions had fallen, that the accused went into court with a prejudice in their favour (hear, hear). Now of whom did the Catholic Association consist? Of three parts out of four of the

population of Ireland. Could any one doubt for a moment that such an Association represented the Catholic population of Ireland? They wielded the whole force of that great population. They were the guides and directors of the whole Catholic body (hear, hear, hear). Could any thing be more calculated to pervert the administration of justice than a society of that description, originating, advising, and reviewing criminal prosecutions? Facts of interference were admitted—the particulars of those facts he would not inquire into—the principle which flowed from them was enough; and that principle made it imperative to put down the Catholic Association for the sake of the pure administration of the criminal law (cheers). But then it was said, that the Constitutional Association only prosecuted on party questions. Why, what were the prosecutions of the Catholic Association but party questions, and conducted with all the acrimony of party feelings? It was on these grounds, sufficient with him, independently of many other objections, that he should oppose the motion (hear, hear).

Mr. Brougham said, he never rose to reply with greater anxiety than at that moment. The *rt. hon. Sec.* (Peel) had, most undoubtedly, stated his objections in a very able and powerful speech—a speech calculated to make a considerable impression. But, impressive as it was, he trusted he would be able to show that it should not drive him one inch from the ground he had taken. He should first re-affirm all that he had laid down in his original speech. With respect to the hawkers and pedlars being heard by counsel, notwithstanding the denial of the *rt. hon. gent.* he was supported by the journals of the house; for having just perused them, he found that the entry specified the facts. He was equally borne out in the other precedents. On the Massachusetts Bill, a bill which, for state and imperial purposes, went to interdict the whole trade and intercourse of New England with Great Britain and her other colonies, the parties aggrieved were heard by their counsel and agents. Not only the parties aggrieved were heard, but the traders of London and Poole; and not only those parties, for their own interests, but the society of Quakers also, who appealed to the justice of Parliament in favour of their fellow-subjects of America, upon the principles of an enlarged humanity. He thanked his hon. friend (Mr. S. Rice) for another precedent, which he had overlooked, of the Irish Parliament; but which, since the Union, was binding upon the Imperial Legislature. In that Parliament, on a bill for the security of the Protestant succession, Sir T. Butler and Sir Stephen Rice were heard for themselves and others, against the provisions of the bill, which declared that no man could hold any office who did not take certain oaths, and subscribe to certain declarations, to which they, as Catholics, could not conform. In that statute the Catholics were not mentioned, just as the Catholic Association was not mentioned in the present bill—and yet the Legislature did not refuse to hear the parties aggrieved (hear, hear). The *rt. hon. gent.* had charged him with inconsistency in supporting the right of those petitioners, since, in a case respecting negroes, he opposed the interference of Counsel. What was the fact? In that case Master Stephen came forward from his own humane suggestions—not connected with the par-

ties—not employed by their masters, nor himself directly interested, but desirous to be heard at their bar as the *prochein ami*, the next friend of the negroes; and in that droll capacity he accordingly applied, but was not allowed to be heard (laughter). But what similitude had such a case with the present? The aggrieved parties were now at their bar (hear, hear, hear). The negroes from Ireland were now waiting their decision. They declared themselves calumniated and slandered, and in the name of common justice, they demanded to be allowed the opportunity of refutation. As to the supposed inconsistency arising from the opinions he had expressed on the Bridge-Street Gang, he differed *à toto calo* from the arguments of the other side. The inconsistency might have been supported had he taken any measures to put down that association by a penal statute (hear, hear). Did he ever propose any restraining bill to extinguish it (hear, hear)? No: much as he censured their motives and objects, he still thought that by the mere enforcement of constitutional law a termination could be put to the efforts of that jobbing, mercenary, and meddling gang (hear, hear, hear). He came now to the main argument; and here he must say, that the *rt. hon. gent.* did not keep his word by uniting himself to the immediate question in debate. But it was perhaps to be accounted for by the example given by his Majesty's Solicitor-General, who had that evening favoured them with a speech, which was evidently intended for the four nights' discussion (a laugh). But to this conclusion did the *rt. hon. Sec.* come. "I care not," said he, "for your cloud of witnesses, I will listen to no refutation, I want no further proofs, neither shall this house receive any documents." And yet there was strong reason to believe that Parliament were very near having certain documents. It had been declared by a Minister of the Crown, that the present bill was not an English but an Irish measure. Of this he was certain, that if the measure came to the English Government, recommended by Lord Wellesley, if it had the sanction of the Attorney-General for Ireland, whose honest sincerity in the Catholic cause he never could doubt, until his conduct should compel him to doubt it—if there existed in the office of the British Government a document from the Irish Government recommending this measure, it was not the only document respecting it which was in their possession. He had no doubt, that if circumstances had induced the Noble Marquis to advise the proceeding now in progress, by the same courier who brought that advice, was also brought an urgent representation of the necessity of accompanying the measure with one of conciliation. If so, they had much to answer for who had stated the severer, uncoupled with the mitigating portion of the recommendation. They had much to answer for to the country, to the house, and most of all to the noble Marquis, and the Attorney-General for Ireland, in making them appear, contrary to their well known and recorded principles, to recommend measures of harshness, unaccompanied by any qualification, by any antidote—unaccompanied, in short, by Catholic Emancipation (hear, hear). The bill before the house pronounced the condemnation of the Association. But before it was thus doomed, it had a right to be heard in its defence. The Association was charged with

leading men to trial under all the disadvantage of a previous investigation, and all the odium of a declaration on the part of the Association of their guilt; as if such things had never been heard of before! The *rt. hon. gent.* had said, that possibly subscribers to the rent might be on the jury; and, he observed, that in this country those who paid for the prosecution could not be witnesses; appealing to him and his learned friends for the accuracy of his opinion. As regarded himself, the appeal was unfortunate; for in answer he must say, that the expenses of a criminal prosecution in this country were generally paid by the prosecutor, and yet he was a competent witness on the trial. However, let that pass. But they were told that the Association had conducted their proceedings in a manner inconsistent with justice, by their previous investigation and declaration of the guilt of the individuals against whom they instituted prosecutions. A similar practice took place in the most ordinary proceedings of the Criminal Courts in this country, even in the Court of King's Bench; for there, when a criminal information was applied for, under a statute passed in the best times for the liberty of the subject, in the early part of the reign of William III., what followed? A speech enforcing the guilt of the accused was made by the Counsel; and though the rule might be refused, that speech was repeated and published in the newspapers, and the injured person thus libelled without the possibility of remedy. But if the rule should not be refused, and the trial take place, what happened? The party having been heard against the rule, and an incriminatory speech having been made in the shape of a reply, the four judges deliberately gave their opinions one after the other, which opinions were also published. So that the accused went to the petty jury with all this previously published accusatory matter, hanging like a millstone round his neck. But with all these disadvantages, had he no chance of escape? A very great one. He had never yet seen a case in which a person had been tried on a criminal information, on a rule obtained in the Court of King's Bench, in which there had not been a favourable disposition towards him in the court. It was the same thing when that house caused any criminal proceeding to be instituted. The party, in that case, went to trial with all the impression that could be created by a previous vote of the house, declaring him guilty of the charge preferred against him, and instructing the Attorney-General to prosecute him accordingly. The speeches made in the house in aggravation of his guilt, were published in all the newspapers. But did that produce any injurious effect on the accused? The instances were rare in which they had been convicted. Ought not the same thing to take place with respect to those persons who were prosecuted by the Catholic Association? They would send a man to trial with the same advantage of a disposition on the part of the court in his favour. Nay, he would have a greater advantage; for he would probably be tried by a Protestant jury. And what had been the actual facts? That the Association had twice tried to convict individuals, and in cases where those individuals appeared to have been justly prosecuted, and in neither case had they been able to induce the court and the jury to concur with them in opinion. Thus, the issue

of these trials was in the very teeth of the declaration, that the proceedings of the Association were injurious to the cause of justice. But a graver charge against the Association remained behind, to which he entreated attention, because it related to an absent and most meritorious individual. If he did not presently convince the house that the accusation made by the *rt. hon. gent.* was utterly groundless, as it regarded the Association, and from this very circumstance derive a new and triumphant argument in favour of inquiry before the measure was passed, he would be ready to abandon at once the cause of the Association. "We have," said the *rt. hon. gent.* "the sentiments of the Association under their own hands. No man will deny what they have said or written. Why call a cloud of witnesses to prove that which is self-acknowledged?" Now, the charge against the Association—for it was only with the charge as it affected the Association that he had any thing to do—was, that they spoke of Mr. Hamilton Rowan as a man entitled to the utmost respect and love from his country; "and yet," said the *rt. hon. gent.*—if amidst some of the most extravagant cheers ever heard in the House of Commons, he had heard him rightly—"and yet Mr. Hamilton Rowan is neither more nor less than an attainted traitor!" The charge then against the Association was, that they had treated with respect an attainted traitor. Now, in the first place, the Association stated, as a fact, that Mr. Hamilton Rowan's name was most highly respected and most dearly loved in Ireland. For the truth of this assertion, they were therefore certainly responsible. But the Association not only stated that to be the general feeling in Ireland, but declared that they themselves joined in the general feeling of respect and veneration; and this was the second and the gravest charge against them. Now, in the first place, he asserted, and offered to prove his assertion by witnesses, that the Association were borne out by the fact, when they asserted that no man in Ireland was more respected or beloved than Mr. Hamilton Rowan (a loud *No!* from some member). He had offered to prove it: he was therefore obliged to the *hon. gent.* for his *No!* for the *hon. gent.* must give him his vote. He said *aye!* On that ground they joined issue and went to trial, and he was ready to call his witnesses. But he went still further. He would show, if the Association had not only asserted that Mr. Hamilton Rowan was treated with respect and affection by all Ireland, but had treated him with respect and affection themselves, by whom they had been instructed. Their teachers were his Majesty's Government, and the successive Lords Lieutenant in Ireland (hear, hear, hear). Mr. Hamilton Rowan was a man of large and even princely fortune, of the purest and most amiable private character, endeared to all his friends by his domestic virtues, and attached to his country by the most ardent patriotism. He was one of those men, who, in the agitated times of 1793, 1797, and 1798, when the wisest were often misled, and when the honestest, from the excess of patriotic feeling, were roused to frenzy by the injuries which they conceived their country was enduring, underwent every species of vituperation, and in that wretched period, were swept away in one general act of attainer, although many of them could never have been brought to trial

with any hope or conviction. "*Fuerint cupidi*,"—for the character was applicable not only to Mr. Hamilton Rowan, but to the Fitzgeralds and others, who went too far in those times; and God forbid that he should deny that they went too far; although God also forbid that he should charge them with crimes of which they were guiltless:—"*Fuerint cupidi, fuerint trulli, fuerint pertinaces, sceleris vero criminis, furoris, parricidii, liceat, Cn. Pompeio mortuo, liceat multis aliis carere.*" Such were not his sentiments alone, with respect to many of those unfortunate individuals. Pardon by his prince, Mr. Hamilton Rowan returned to the bosom of his family. Again he became the dispenser of blessings to his attached tenantry. By the manner in which he expended his liberal income, and by the whole tenor of his conduct, he became the darling of his neighbourhood; he served on the grand juries, and he acted as a magistrate! And under whose superintending eye did he so act? Under that of my Lord Manners—of Lord Manners, who so readily purged the Commission of the Peace wherever he saw any one whom he knew to be a friend to Catholic Emancipation going, as he conceived, too far in the support of his opinion. Lord Manners—that pink of loyalty, that upholder of the church establishment under that tutelary saint, the late Chief Secretary, left Mr. Hamilton Rowan, the attainted traitor, in the magistracy, to teach treason by his example, aided by his authority (hear, hear, hear)! Nor was that all; Mr. Hamilton Rowan attended the Courts at the Castle, and was received with uniform favour, courtesy, and kindness, by one Viceroy after another—men of every shade of opinion; not only by Lord Wellesley, but by Lord Whitworth (hear, hear). And this was the man by whom the Association were to be attacked, vituperated, and denounced, unheard, and without the means of defence, for declaring to be entitled to, and enjoying the respect and attention of his countrymen. He had declared, that if he could not compel that charge against the Association—if he could not convince the house from that unexpected quarter—if he could not commend the chalice to the *rt. hon. gent.'s* own lips, which he had prepared for his opponents—if he could not elicit new arguments from his assertion on this part of the subject, to show the necessity for inquiry, to prove the incalculable dangers which they were incurring in their course of hasty legislation, he would at once abandon the cause. But, did he now feel himself called upon to redeem that pledge by abandoning that cause? On the contrary, he felt that the cause stood on ground a thousand times higher than that on which it stood when those tumultuous cheers followed the *rt. hon. gent.'s* statements. And now, he asked every honest, every reflecting, every conscientious man, if he could have believed, before this explanation, that in the crime of which the Association were accused by the *rt. hon. gent.* they were, in fact, only the accomplices of Lord Manners, and of the successive Lords-Lieutenant and Attorneys-General of Ireland (hear, hear, hear). He begged the house to look at the consequences of what they were about to do. They had now an opportunity in their power, which, if they let slip, they might never be able to grasp again. If the measure in progress should pass, if it should receive the Royal assent—that of

the Lords, he supposed, was considered as a matter of course—if it should be found to accord with the unanimous voice of the country, even under all those circumstances, in order to render it a safe measure, they must have the assent and the co-operation of the Association itself. If, therefore, they passed the measure, at any rate, let them make it a safe, a wholesome measure—a measure which might give permanent peace to Ireland. To make it acceptable, not merely to the hundreds of thousands for whose particular interest they conceived that they were passing the measure, but to the millions who inhabited the country in which it was to operate, they must accompany it with conciliation. They had at that moment, within the walls of the house\*, the chosen delegates of the Association. In those gentlemen the Association had unanimously reposed their confidence. The Association itself possessed the confidence of the whole Catholic body in Ireland. They had, therefore, virtually before them, all the Catholics of Ireland, anxiously awaiting their decision—their commands. Let their witnesses be brought to the bar. If they failed in proving their case, in God's name let the measure pass; they would then pass a constitutional, a just, an effective measure, which might succeed in giving peace to Ireland. Of this, however, he was sure, that they could not bear the details which they were prepared to lay before them, without entertaining a higher sense of their conduct and merits. On their parts they would be duly sensible of the indulgence of the house. By the mutual intercourse which would thus take place, whether they passed, or whether they rejected the bill, would become a matter of comparatively less moment; they would give contentment, and, for the first time, lay the foundation of peace in Ireland. They were ready to produce every document—every letter—every scrap that had crossed the threshold of the Association. Their books were ready. The names of their subscribers they had entered in a book, as it was indispensable they should do; for they would have been charged with dishonesty by their opponents had they not done so: but a book of prohibition, a book of exclusion, a black book as it has been called, there was none. They were prepared to prove the efforts which had been made by the Association to tranquillize Ireland. They were ready to prove, that when disturbances existed in the Upper and Lower Ormond, when the Ribbonmen made an alarming progress in those districts, Mr. O'Connell and others repaired thither to check them: and that in the name of the Association, and with the Address of the Association in their hand, they did check the spirit of ribbonism, and restore tranquillity. He selected these from many other details which the delegates were ready to give. Let the house examine them, and they would find that there was no point on which they were not solicitous to afford every possible explanation. If, in the teeth of all these advantages; if in utter neglect and contempt of the signs of the times, they persisted in the course, not of passing the bill, but of refusing to enter into any inquiry with respect to the facts on which its authors professed to found it—if, notwithstanding the

\* Messrs. O'Connell, Shiel and Bric, were seated on one of the benches below the bar



most astounding instance of a misrepresentation of the truth, which he had just exposed in the case of Mr. Hamilton Rowan, they still persisted, he disclaimed all share of the responsibility. On their heads be it (loud cheers)!

The house divided.—For the motion, 89—Against it, 223—Majority, 133.

Monday, Feb. 21.—Mr. Goulburn presented a petition from 2000 freemen in the city and neighbourhood of Dublin, against the Catholic Association, and praying that no further concessions should be made to the Catholic body.

Mr. Brougham presented a petition from three individuals, R. and J. Alcock, and John Henderson, freemen of Dublin, against the bill. The petition was a proof of the utility of the Association. The petitioners were entitled to the succession of the privileges held by their fathers as freemen of the city. Their title to that freedom was as clear as it could be to any free-man held by their fathers. The Corporation of Dublin would not admit them, because they were Catholics; and they could not obtain this, the merest matter of ordinary right, without a *mandamus* from the Court of King's Bench. The petitioners were poor, and could not have struggled with the corporation if they had not been assisted by the advice and funds of the Association.

Sir J. Newport said, that this was an aggression of daily occurrence in Ireland. He knew of cases, where admission-fee to corporations were lowered a third or a half to Protestants, whilst they were exacted to the last farthing from Catholics (hear, hear).

Lord Nugent presented a petition from the great body of the British Roman Catholics, among whom were the Duke of Norfolk, the Earl of Shrewsbury, Lord Stourton, Lord Arundel, two Catholic Baronets, and the greater part of the Catholic Bishops.

The second reading of the Unlawful Societies Bill having been moved,

Lord Nugent said, he found a sufficient ground for opposing the measure in every stage of its proceeding, in this remarkable circumstance—that hardly two of his Majesty's ministers had yet been found to agree as to the state of the country to which it referred, the motives for proposing it, or the results which might be anticipated from it. If the Sec., and Attorney-General for Ireland, were right as to the extensive influence exercised by the Association over the Catholics, then the Sec. for Foreign Affairs must be wrong in the opinion which he expressed on the subject. If, on the contrary, that rt. hon. gent. were right in supposing that the Association did not represent the feelings and wishes of the country, then the two rt. hon. gent.'s first mentioned must be wrong; and yet, if they deferred to the opinion of their colleague, they must abandon their prime argument in support of the bill. One objected to the Association because it did not represent the feelings and wishes of the Catholics, and the others, because it did. Either might be right, but it was impossible that both could be so. The Sec. for the Home Department objected to the Association because it kept Ireland in a state of disturbance, and the member for Louth (Mr. Foster,) disliked it, because it had placed Ireland in that state which he considered most dangerous of all—a state of perfect repose. When the supporters of the

measure differed thus as to the grounds on which they considered it necessary, what result could they anticipate from it in common? He would also oppose the bill, because not only had, no case been made out in support of it, but an offer to prove a case against it, by evidence at the bar, had been rejected. He objected to it, because, even if a case had been made out for it, it was extremely bad, inasmuch as it was incapable of producing any other effect than irritation in the minds of those against whom it was directed. He objected to it, because if it were not meant to shew that the liberal part of the Cabinet had deserted the Catholic question, it seemed at least a peace-offering to their anti-Catholic associates. The house was called upon to pass the bill, in the hope that those against whom it was directed would feel so much deference to the will of Parliament, that they would not attempt to evade it. Thus Parliament passed an act against a body of men, and then recommended them not to transgress it. This put him in mind of a story which was told of the late King of France. An emigrant noble, who had accompanied the King to this country, committed some supposed offence against his Majesty, for which he was cited to appear at a *lit de justice*, at the house of the sovereign. He did not appear, and was, therefore, condemned *par contumace*, and sentenced to consider himself a close prisoner in the Conciergerie at Paris (a laugh). He walked about London for several years, always considering himself, and considered by all loyal Frenchmen, as a close prisoner at Paris, until he was released from his confinement by death. He would never consent to the bill till Parliament was informed of the conditions which Lord Wellesley had coupled with his recommendation of the measure. He could not believe that that distinguished individual could, at this time of day, be weak enough to change his opinions, or base enough to sacrifice them. Then what was to be thought of one half of the recommendation being promulgated whilst the other was concealed, for the purpose of giving one side of the Cabinet a triumph over the other? He concluded by stating that there had been very little community of feeling between the English Catholics and the Association, until this attack upon that body; but now every Catholic in England, from the Earl-Marshal, the Howards, the Talbots, and the Arundels, down to the meanest peasant, was pledged to that body. The right of free discussion was the only plank which was left to the despairing Catholics, and to that they would cling to the last moment (hear, hear).

Sir E. Knatchbull supported the bill. He had always, from conscientious motives, opposed the Catholic question, and would always continue to oppose it. He felt it due to his constituents to say thus much (hear, hear).

Mr. M. Fitzgerald said he would endeavour to suggest some practical considerations which bore upon the question, and were, he thought, worthy of the attention of ministers. In their proceedings against the Association, it appeared to him that ministers had taken the effect for the cause. The Association was not the cause of the present danger, but the state of things which threw the population into the hands of such a body; and that was the effect of the postponement of that justice which the people of Ireland had been looking to Parliament for during twenty-five years (cheers);

and if he were called on to name the cause of that state of things, he would say that it was solely the doing of Mr. Pitt's administration (loud cheers). That minister told the people of Ireland, that by consenting to a Union with England, the doors of Parliament would be thrown open to an impartial discussion of their claims. The hopes of the Catholics were raised to the highest pitch, and they looked forward in confidence to the justice of the united Parliament. They were disappointed; and from that period he dated the commencement of the unhappy state of things which at present prevailed in Ireland. There was nothing in the measure before the house to allay the danger. That was not in the Association, but in the union of the Catholic people to recover their rights (cheers). The bill would not remove that danger, thought it might drive it to other modes of expression (hear, hear). Ireland, we are told, is tranquil and prosperous: but prosperity there was not a source of security. On that very circumstance an enemy would ground his expectation of a successful invasion. He would ask the house to consider the history of Ireland since the Union. At the period of the Union, the Catholic nobility and hierarchy reposed boundless confidence in the Government, and the mass of the people followed the example which they set them of zeal in support of the laws. That was a period when the ministry might have carried the Catholic question without a murmur—the only measure that could have healed the wound which had been made by the treacherous measure of the union. If since that period the Catholic body had undergone a change, if, instead of the general subordination of ranks, which then prevailed, they had been drawn into a vortex, and thrown into the hands of men who would not at any other time have directed them, it was to be attributed to their disappointed hopes (hear, hear). Insulted, degraded, and rendered desperate, it was not surprising that they should entrust their cause to men who, not despairing of their country, had asserted the dominion of talent, perseverance, and patriotism (cheers). The present measure, as regarded even the views of its promoters, was a most extraordinary one. "We don't imagine that we can make you obey us," said the advocates of the measure, "but we rely on your characters, on your state in society, on your known love of your country, as pledges that you will do so." Why, if the Catholics were distinguished by such qualities, what need of any thing—how unjust and impolitic to propose any thing, except conciliation (hear, hear)! He was convinced that if even an honest assurance of dealing fairly with their claims were held out, the elements of the Association would be dissolved into their separate forms, and no power on earth could re-unite them. The Catholics, of whom there were many in every situation of respectability, were deeply interested in the tranquillity of Ireland; they would soon begin to look to practical results, and if any such promise were held out, they would rest quiet in their private occupations, like the Protestants. Some gentlemen talked of apprehending ulterior views; and the *hon. Sec. (Canning)*, had been thanked for his assurance that, in every measure contemplated on behalf of the Catholics, the safety of the Church of England would be amply provided for. He candidly appealed to the house, whether any thing could be more

unfair than to raise up such a consideration, at this time, with the Catholic question (loud cheers)? Why, the security of the Established Church lay in granting the Catholic claims—its fullest, and almost its only security. He believed, that if the tithes of Ireland were offered to the Catholic clergy to-morrow, they would have too much good policy to accept them. There were other circumstances than had yet been adverted to, which should induce the house to consider well at what time, as well as in what manner they were acting. His anxiety was increased by what was going on upon the continent. He looked with great jealousy at the increasing religious zeal in foreign Catholic countries. He thought he saw, in the zeal of the present Pope, an intention, which all despotic governments would be forward enough to assist, to revive, as far as possible, in the present day, that commanding influence which the Catholic church formerly exercised over society. That there existed a disposition, and a strong one, in the Court of France to do this, was undoubted; it would not be difficult to give that disposition an influence in Ireland. If the Catholic faith were to be denounced in England; if the Catholics of Ireland were to be shut out for ever; if they could only be admitted to their rights by ceasing to be Catholics, was there nothing to be apprehended from the inflammatory paragraphs with which the papers of the continent were filled, characterising England peculiarly as the country of intolerance, and telling her to look at Ireland, when she talked of having given liberty to the world? The *ultra* newspapers of France spoke out—"England dares not go to war, for Ireland is a magazine of gunpowder, which would explode with a single spark." Was it supposed that these newspapers did not reach, or were not understood by the Irish Catholics? After all that this country had done to re-establish the throne of the Bourbons, he doubted whether that family would not be more ready to tamper with the population of Ireland than the government which we had overthrown (loud cheers). He believed that Napoleon would never have stirred up a religious war; but he was far from entertaining the same opinion with respect to the reigning family. In fact, there stood the inflammatory declarations he alluded to—the French papers were full of them. It was by no means unlikely that an attempt might be made to organize another Irish brigade in France; for the house of Bourbon would not have forgotten the courage and fidelity of the old one. The remedy against all this was clear—the people of Ireland said to this country—"We value the franchise of your constitution beyond every other advantage. All we ask is to be included in it—to enjoy that which, under it, you all enjoy yourselves." If they thought otherwise than this, they needed not be long in getting rid of all necessity for urging their claims; therefore let them be immediately conceded (cheers). If the measure before the house were carried, what practical advantage would be gained? The existing society might be put down; but what was gained if a variety of smaller ones immediately arose, having the same end and object in view, and extending themselves through every county or parish in the country? There was much complaint as to the intemperate language used; but the bill would not prevent a set of Irish gentle-

men from meeting at dinner; or did the house think that their speeches would be more temperate after dinner than before it (a laugh)? In conclusion, he contended, that it was absurd to suppose the Catholics would ever cease to prosecute their claims—knowing, as they did, that those claims were viewed as rights by many of the very highest authorities in the British empire; and he believed that the bill would be worse than useless, unless accompanied by some measure of relief.

*Colr. Treach* began by enumerating the several points in which Ireland had lately been assisted by the efforts of the English Government; and contended that, although the effect of those exertions had been great, as regarded the prosperity of Ireland, it would have been still greater but for the counteracting influence of such bodies as the Catholic Association. The main evil which affected the population of Ireland lay out of the reach of the Legislature; all, however, had been done, that could be done, in spite of those whose interest lay in the continuance of disension and discontent. The whole office of the sheriffs of counties had been re-organized; the state of the law courts had been improved; abuses had been reformed in the customs and excise; and the assessed taxes entirely taken off, in order to encourage the residence of those smaller country gentlemen, who might have been driven abroad by debt, or otherwise, and whose presence in Ireland was so important. He proceeded to point out the causes of that distress which still existed in Ireland, and declared most of them could only be removed by the exertions of the landed gentlemen in educating and improving the condition of the lower classes.

*Mr. Sykes* expressed his conviction that a great change had taken place in public opinion, with regard to Catholic concession. In the very populous town of Hull, which he represented, illiberality on the score of religion had in a great degree declined. He remembered a time when the supporters of the Catholic question were not only unpopular in that town, but were in some personal danger; but now, he professed himself a decided advocate for the Catholic claims; and he was certain that at the next election he should not find one enemy on that ground (cheers). The eyes of the people were opened; they were becoming every day more enlightened, and saw the absurdity and injustice of depriving any man of his civil privileges on account of his religious opinions (hear, hear). Whatever might be the immediate effect of the present bill, he was satisfied it would in the result do more harm than good. With respect to the Association, he would observe that it must be considered as growing out of the state of the public mind in Ireland, on the subject of the Catholic question. As to the mode in which they should be treated, he would suggest—

“Be to their virtues very kind,

“Be to their faults a little blind.”—

But coercion, such as this bill proposed, would be wholly ineffectual (hear, hear).

*Mr. Grasfell* observed that he had said, after hearing the statement of the *rt. hon. gent.* (*Mr. Goulburn*), that if this Association interfered with the administration of justice, it ought not to be suffered to exist, and that he would give his vote for putting it down; but he did not pledge himself to give his support

to the particular means by which that object was to be effected; and now, after having read the bill, he should oppose its second reading (hear, hear): and he should repeat, what he had before stated, that it was impossible to expect that six millions of Catholics could submit to one million of Protestants—that to compel them to do so was injustice—that to perpetuate that injustice was oppression—that if, thus injured and oppressed, the Catholics resisted, he prayed to Almighty God that their resistance might be successful (cheers).

*Mr. Phillips* denied that the existence of the Association had prevented Englishmen from embarking their capital in Ireland, as was stated by the *rt. hon. gent.* (*Mr. Goulburn*). He knew that the manufacturers in Lancashire were not at all afraid to send over their cotton-twist into that country, and he was glad to say that that trade was extending every day. He believed that as long as tranquillity continued in Ireland, whether produced by the measures of Government, or the influence of the Catholic Association, that Englishmen would not object to send their capital thither; but though the country was now tranquil, he was convinced that its tranquillity would not be permanent unless it rested upon an amicable settlement of the Catholic question. He was almost ashamed of the name of Englishman, when he reflected on the degradation to which England was exposed in Europe, even in the eyes of the Holy Alliance, by her illiberality on this ground of religious difference (hear, hear).

The cries of “Question” now became very loud and general, and the house divided.

For the second reading, 253—against it, 107—Majority, 146.

THURSDAY, FEB. 22.—On the question that the Unlawful Societies bill be committed,

*Mr. Hume* said, that before the Speaker left the chair, he would submit a resolution by way of instruction to the committee. One of the evils by which Ireland was afflicted was the practice of introducing bills on every occasion, to patch parts of a bad system, instead of adopting a general measure which would go at once to the root of the evils. The present was one of those patching bills. No one had attempted to say that it would remedy the present system in Ireland. It was stated, amongst other things, that this Association had caused great alarm in Ireland. But to whom? If at all, to the small faction who had so long the ascendancy in that country, and the undisturbed monopoly of place and power. As a specimen of that monopoly, he would observe that the number of Protestants holding places in the Customs were 226—while the Catholics were 14 (hear, hear)! In the Excise, the Protestants were 365, while the Catholics were only six (hear, hear, hear)! He confessed that, if he were a Catholic, it would be a mere matter of calculation with him whether he should assert his rights as a man and a patriot, or run the risk of being hanged as a rebel and a traitor (hear and laughter). By denying to the Catholics of Ireland their just claims, not from any fear of their religious sentiments, but from a fear lest they should obtain a portion of those offices of trust and emolument which were at present monopolized by the dominant faction in that country, we incurred the risk of losing that island altogether. Why should Parliament continue such a system, when by getting

rid of it, it would not only attach a gallant nation to its side, but would also rid England of an annual expense of 4,00,000l. now incurred to keep it in subjection? He then proceeded to point out the difference between the Orange and the Catholic Associations, and to contend that if the Government had wished to act fairly between them, it would have dismissed from its service all its *employés* who were members of Orange lodges. As to the Catholic Association, considering the insulting manner in which the former petitions of the Catholics had been dismissed, he thought that they had adopted a quiet and constitutional mode of obtaining a redress of grievances. So far from objecting to it, he considered it a laudable association, in perfect consistence with the principles and spirit of the constitution. Believing, therefore, that this association had been most unjustly vilified, and seeing that the bill, which was intended to put it down, was shamefully partial in its operation, he intended to submit a clause to the house, "That any person now holding, or who might hereafter hold, office under the crown in Ireland, should take an oath that he does not now belong, and that he will not hereafter belong, to any association declared to be illegal by this act." He could not see upon what grounds such a motion could be resisted, and he was sure that there was one very powerful reason by which it was recommended. That reason was, that nothing could better allay the irritation such a measure would occasion than the knowledge that it would put down other associations which had hitherto triumphed over the law and eluded all its regulations.

Mr. *Goulburn* resisted the motion, not only because it was not calculated to effect its object, but also because it was objectionable in principle, as calling upon every officer to take an oath, not merely that he was not guilty of a particular offence, but also that he would not at any future time be guilty of it. If this were a fit principle to proceed upon, why did the hon. member call for such a declaration with regard to a minor offence, punishable only by fine and imprisonment, and neglect it with regard to greater offences, for which severer penalties were inflicted? Was it just, he would ask, to call upon an individual to take an oath, when, by refusing to take it, he gave indirect evidence that he was a member of an illegal society? He knew of no case in which such a test had ever been required from public officers, and he did not see any reason why it should be demanded from them in the present case (hear, hear). If any Orangemen were at present in the employment of the Irish Government, it was because the constitution of the Orange lodges had been so completely altered as not to transgress the existing laws. Should any servant of the Government be discovered to be a member of an illegal Orange lodge, he would not only be dismissed from his situation, but would be immediately handed over to the law to suffer the punishment which it affixed to that offence. For these reasons he should oppose the motion.

Mr. *G. Lamb* observed, that no man was bound to take office against his will; and argued that as every man had to take some test oaths before he entered upon office, he saw no reason why the test recommended by his hon. friend should not be added to those already in existence. If they wished to give a

triumph to neither of the two parties into which Ireland was divided, and to hold the balance impartially between them, they would not send this obnoxious bill to Ireland, without adding to it the clause recommended by his hon. friend.

Mr. *C. H. Hutchinson* said, that in the hope of either shaming or terrifying ministers out of this bill (hear, hear), he should again express his execration of this abominable measure, which was founded in injustice, and was in direct opposition both to the principles and practice of the constitution (hear, hear). It was calculated to rouse every honest thinking man in Ireland to acts, if not of outrage, at least of active exertion to put down the men, who in a time of general peace and prosperity, as they had themselves declared it to be, had brought in a bill which was more calculated than any which he had ever yet seen, to spread rebellion and war through that unfortunate country (hear, hear). He was not surprised to observe that the Sec. for Foreign Affairs was absent to-night. He was absent, doubtless, because he well knew that a learned friend of his would put him to shame on the question, as he had often done before (a laugh), by once more refuting all the arguments of him and his adherents. They depended for those arguments on the hon. member for Kent (a laugh), but those arguments he must contend, without meaning any disrespect to the hon. bart. (Sir E. Knatchbull) were altogether unsatisfactory. Majorities of that house might carry this odious bill; but they had all, unfortunately, heard of majorities in other countries, in Ireland, and in other kingdoms of Europe, where they had been packed and corrupted for the most mischievous of purposes. They had been, in this country, the means of imposing taxes upon the people to the amount of millions, and had thus enlarged the public debt to an extent irredeemable during the largest period allotted to human existence. At one period, and that a recent one, of her history, they had brought England herself to the brink of ruin. Similar majorities had goaded Ireland to rebellion; and to a similar catastrophe ministers seemed to be trying to drive her again. He had had woful experience of the effects of those majorities, by which Government was sometimes content to carry through the most fatal and obnoxious bills (hear, hear). It was, therefore, as an Irish gentleman informed by a long residence in the country of what it had endured, and might yet endure, from similar measures, that he stood there to warn the house that the same system had before driven Ireland to madness and to revolt. If, however, they were the last words he should ever utter, he desired to declare that the rebellion in Ireland of 1798 was justified by the circumstances under which it arose (hear, hear); he desired to protest that every body who on that occasion had suffered as a rebel was a martyr, and that every man at that time in power, who had lent his countenance or aid to their destruction, was a traitor to his country (hear, hear). He had himself resisted the armed rebels; but he did not the less oppose and deprecate the persecuting spirit of the Government of that day. He might refer to the gallant member for Southwark (Sir R. Wilson) to corroborate his assertion, that the "rebels" were not the worst subjects of that day; they were the worst subjects whose oppressive measures had driven them to be-

come rebels. Here he entered into a brief narrative of the circumstances which followed the descent of the French in Ireland, and alluded to the surrender of the second in command of that armament to himself. The French General who was thus captured was a very clever man (a laugh); and in the course of conversation, asked him how it happened that the French had not been received with open arms by the Irish? "Because," he had replied, "though theirs was a dreadful Government, yet the people did not expect any relief from the bayonets of the French." He proceeded to contend, that at the moment when Ireland was beginning to regain her prosperity—when her improvement was announced from the Throne, that a bill was brought in to put down this Association, which not only had not done any harm, but which had effected a great deal of good; and this, too, to please not even the majority of the Protestant population, nor even of the Orangemen; but the mere rump of the Orange faction. This system might, possibly, be pursued a little further; but the day of retribution must come at last. In all the Catholic part of Ireland this measure had excited the most extraordinary and intense sensation; so great was the confidence and affection of the Catholics towards the Association. These sentiments were fully justified by the talents of his learned friend Mr. O'Connell, and other members of the deputation. He had now to beg pardon of the house, for having said so much on this subject; but of his country, for not having said much more (a laugh) in resisting a measure, to oppose which he would sacrifice his life (hear, hear).

Mr. Plunkett said, that as to the amendment proposed by the hon. member for Aberdeen, he had a word or two to offer. He as much approved as that hon. member could do, of the broad principle that no person, being a member of any illegal society, should be admitted into office; but the hon. member must permit him to say, that the effect of his proposed instruction was quite irreconcilable to law or common sense. What was it that he proposed? First, that a person should swear that he was not guilty; and secondly, that he would not thereafter become guilty of belonging to any society that should be an illegal one. Until that night, he had never heard that it entered into the range of human legislation to compel a person to swear to a point of law. And yet this would be the effect of the oath he proposed. The bill that was about to go into a committee very properly provided, that though the acts of only a portion of its members might render a society illegal, and therefore subject those members to its penal consequences, yet they who should be members in ignorance of its illegal character, and not participating in its illegal acts, should be exempted from the penalties of the bill. But by the hon. member's amendment, the party would be compelled to swear whether the society were legal or not, in order to determine his eligibility or ineligibility to office. He would thus be required to swear to a point of law, of which he could scarcely be supposed to be cognizant, that point of law going to a point of fact, of which, also, he could not be cognizant. The learned gent. concluded by stating that he was disposed much rather to rely on the honour and justice of Government, that no

one connected with it would venture to appoint any body to an office who should be a member of a society declared to be illegal.

Mr. Donnan had one objection undoubtedly to that proposition; it imposed a test (hear)—a feature that certainly would not recommend it to his favour. But if it were really meant to persevere in the obnoxious measure upon which they were required to go into committee, he thought he could get over this objection, and vote for the amendment. That bill ought to be framed so as to apply to Orangemen as well as others—one sect or class as well as another. The learned gent. opposite argued that its enactment would not affect a person acting in ignorance; and had asked how his hon. friend could propose to make a man swear to a point of law and a point of fact that could not be within his knowledge? Why, in the first place, the very objection that he most strongly felt to this bill was, that it did affect those who should be connected, even through ignorance, with an illegal association. In what clause was it provided that its operation should be confined to those who knowingly and wilfully might be attached to such societies? "And be it further enacted, that every person who after shall become a member of any society, committee, or other body of persons, hereby declared to be an unlawful combination and confederacy, or shall act as a member thereof, and every person who after shall directly or indirectly maintain correspondence or intercourse therewith, or with any committee or other select body, president, treasurer, secretary, delegate, or other officer or member thereof, as such; or who shall, by contribution, collection or receipt of money or otherwise, aid, abet, or support any such society, or any committee or other select body, or any officer or member thereof as such, shall be deemed guilty of and every person convicted of any such offence by due course of law, shall and may be punished by as the Court before whom such offender shall be tried shall think fit." The party, therefore, was to be deemed guilty of a crime—whether of felony or misdemeanor—that was left in blank, and to be visited by a punishment also left in blank. There was no qualification [A member here suggested, that there was a qualification in the following clause]. His learned friend had pointed his attention to this clause:—"Provided always, and be it enacted, that where any society, committee, or other body of persons shall become an unlawful combination and confederacy within the meaning of this act, by reason of any matter or thing done by its members, or any of them, contrary to the provisions of this act; no member thereof shall be deemed guilty of such offence as aforesaid, or be subject to the penalties herein contained, unless he shall act as a member of such society, committee, or other body of persons, after his knowledge of such matter or thing done, whereby such society, committee, or other body of persons, shall have so become an unlawful combination and confederacy as aforesaid" (cheers from the Treasury benches). This was certainly a qualification to some extent. The reason for calling on a person before he took office, which was a voluntary act, to take the oath proposed by his hon. friend, seemed to be this—to discover whether

or not he belonged to any society of the kind alluded to—a knowledge which, without some such means of ascertaining the fact, there seemed to be no means of coming at. But the object of the bill should rather be directed to the secret associations than to the open ones (hear, hear): the societies which were leagued together by secret oaths, such as the Orange Societies, were those that should be proceeded against. On this ground alone it might be possible to support the clauses he had just read; b. on the same ground he would vote for the clause proposed, should the bill be allowed to go to a committee.

Mr. Peel thought that the learned gent. would do well in future to read bills before he discussed them; for it was quite clear that the learned gent. had not read the bill on which he had been making a most vituperative attack. Surely it was not too much to ask of a learned judge, at least to hear the defence of a prisoner before he pronounced his condemnation. It seemed to be complained that Government were desirous of passing this bill without sufficiently discussing it. Now, after it had already, during five nights, been largely discussed, and every hon. gent. who had opposed the bill, had been regularly followed by some hon. member who was friendly to it, he thought there seemed no great desire to evade discussion. But the hon. member (Mr. Hutchinson) had said that he would endeavour to terrify or shame the Government out of this bill. Now he assured the hon. gent. that no language which he might make use of would ever deter him from pursuing that line of conduct which he might think his duty to his country as a member of that house, and to his Sovereign, as a servant of the Crown, demanded of him (cheers). The hon. gent. had also talked about corrupt majorities; and yet in two sentences afterwards, he had declared that he relied on the enlightened wisdom of that house to remove the disabilities of the Roman Catholics of Ireland. Now if the hon. gent. did rely upon the enlightened wisdom of that house, he would ask him whether he supposed that the house would be so influenced by corrupt motives to pass a penal law affecting the Roman Catholics (hear, hear)? He too much respected the good sense of the hon. gent. himself and the character of Parliament, to press this question any further. With respect to the proposition of the hon. member for Aberdeen, he must observe, that if the bill in question should pass into a law, the other statutes affecting secret societies in Ireland would still remain, under which persons becoming members of such societies were liable to transportation. Now, the hon. gentleman's proposition went to make a man swear, on entering office, that he did not belong to any secret society. If, belonging to a secret society, he should conceal that fact, he would commit perjury, and be liable to the penalties of that offence; but if he should refuse to swear, and admit his connexion with any illegal association, then he might be transported. Now if they would risk transportation, they would not stop at an oath: of what use, therefore, was the hon. member's test? But suppose an officer of Government should prove to belong to an Orange Lodge? Upon that point, he could find no difficulty in saying, that it would be the duty of Government to remove from his office any body in

such a situation (cheers). He thought that the hon. gent. must see that his motion would not affect the object he had in view; and he hoped that the hon. gent.'s good sense would prevent him from pressing the matter to a division.

Lord Althorpe was glad to hear from the rt. hon. Sec. (Peel) the consolatory pledge that no Orangemen would be permitted to hold office. He believed that that single declaration would do more to put down illegal societies in Ireland than these bills or any other means (cheers). It was on this account that he was glad that his hon. friend (Mr. Hume) had submitted his proposition to the house; the country was at any rate obliged to him for affording the rt. hon. gent. an opportunity of making so important a declaration.

The clause was then rejected; after which the bill was committed, and the blanks filled up.

The report was ordered to be taken into further consideration on Thursday next.

FRIDAY, FEB. 25.—On the motion for the third reading of Unlawful Societies bill,

Mr. *Leycester* said, that in his opinion, the Catholic Association had contributed to preserve the peace of Ireland, and he could not, therefore, doubt that it would continue to do so. He believed, too, and this was another reason which would make him regret to see it put down, that Catholic Emancipation would be hastened and rendered more certain by means of the Association.

Mr. *Spring Rice*: There was one of the clauses of the bill at which he was astonished, on account of the monstrous power which it proposed to vest in the hands of the Irish magistracy. The clause to which he alluded was that which empowered any mayor, sheriff, or justice of the peace, within their respective jurisdictions, to command all meetings declared in the bill to be unlawful immediately to disperse, and to demand admission into any house, out-house, or office, where they should have good reason to believe that such unlawful assembly might be; and if refused, to enter by force. Even if the magistrates of Ireland were all that was most pure, it would be wrong to entrust them with such powers; but how much more impolitic it became, when it was notorious that many of the magistracy had committed acts of the greatest injustice! There were several cases in illustration of their behaviour, to which he would particularly call the attention of the house. In *Corrol v. Falkner*, which was an action for false imprisonment, tried at Clonmel, it came out that the plaintiff was a police officer, who had entered the defendant's house for the purpose of serving a civil process. The plaintiff having neglected to take off his hat, was first ordered out of the house by the defendant, who was a magistrate, and was finally committed under the Insurrection Act, under the pretence of having behaved tumultuously, and having entered Mr. Falkner's house with armed men, which armed men were his brother policemen. In the course of that trial Mr. Doherty had observed, that "heretofore the laws of this country were only known to the peasantry by their severity, and we were not, like our more favoured neighbours, accustomed to look to them for protection; but a new era is dawning." The Chief Justice, in his summing up, had remarked, "that the only question was the amount of da-

magistrates. That the commitment under the Insurrection Act could not have been *bona fide* by the defendant, was manifest; to say the best of it, it was foolish and unadvised." In the next case, *The King v. Delap*, which was tried at the Waterford assizes, a magistrate had perceived a poor labouring man meddling with some seaweed on the shore, which he was in the habit of using as manure, and the justice had expressed himself so warmly on the subject, that either through his orders, or some misunderstanding of them, Delap, who was a policeman, had shot the unfortunate man through a mistaken sense of his duty; and that circumstance alone had induced the jury to return a verdict of manslaughter, instead of murder. On the trial the following words had fallen from Chief Justice Bushe: "Nothing is more deplorable than that gentlemen, in vindication of their seal, or supposed civil rights, should resort to such rigorous and unwarrantable proceedings against men in humble station. I am convinced that this vindictive and overbearing spirit has been one of the principal causes of the turbulent and lawless proceedings which disturb the neighbouring counties, and I cannot feel surprised that it should produce such consequences. If persons in the higher ranks of society will lord it over their inferiors with a high hand—if they trample upon public justice, and convert the laws into instruments of oppression against the weak and powerless, it is in vain to hope that the people will feel for them either respect or affection; or that they will refrain from endeavouring to procure for themselves, by violence, that redress which the conduct of their superiors teaches them to believe is not otherwise to be obtained." Another case that had been tried at the same assizes, was that of *Nagle v. Boyce*. Boyce, who was a magistrate, had been the landlord of the plaintiff; being desirous of cancelling the lease, and not having either the patience or inclination to go through any plan that might have been proposed by Nagle, he resorted to the summary expedient of imprisoning the plaintiff on a charge of felony. On that charge he had been detained for fifteen weeks in the bridewell of Tallow, without food, fire, or candle, except such as he could afford to procure himself; and at length, on consenting to give up the lease, he was released without being brought to trial. On the trial that was instituted by Nagle for false imprisonment, Mr. Doherty had taken occasion to exclaim, "Was not this an abuse of the justice of the country, and of the laws of the land? It was monstrous to say that any magistrate should assume to himself arbitrarily, and at his own pleasure, the power of sporting with the liberty of any man, however mean, obscure, and humble. In giving their verdict, the jury would teach the magistracy this salutary lesson—that they should not abuse the great public trust reposed in them by perverting their authority, and making it accessory to private or political purposes." On the same occasion, Chief Justice Bushe had remarked, that "It would be but a mockery to open courts of justice, and for judges and juries to assemble to administer the law, if the very fountains of justice were to be polluted, or if men who were invested with an important public trust were to make their public authority subservient to their private ends; the defendant was, in his opinion, utterly unworthy of being restored to the commission." The last case that he would trouble the house with was another

charge of false imprisonment against a magistrate, *Lawrence v. Dempster*. In that case a verdict had been returned for the plaintiff, and Mr. Doherty had made the following remarks: "This is the third case against magistrates at the present assizes. This case will show the manner in which the Insurrection Act has been administered in a part of this county. I rejoice that the cases of oppression which have been developed at these assizes were not earlier made public, lest the sturdy guardians of our rights and privileges, who yielded lately such a reluctant assent to this harsh, but, I believe, necessary law, should have been confirmed in their opposition, from seeing the vile, selfish, and tyrannical purposes to which it has been made subservient in the hands of arrogant and oppressive magistrates; and lest they should have formed their opinions from the abuse rather than the use of this salutary law. Teach him, if he continue in the commission of the peace, that he must learn to administer the law in its true meaning, and not, as in the present case, torture it into an instrument of caprice or malevolence." These, then, were the sort of men to whom the administration of the laws was trusted, and to whom the house were to look as the proper and becoming officers for carrying the present act into effect. The cases that he had quoted were cases that could be relied upon; and he trusted, therefore, that the house would suspend their judgment in so important a clause; more especially as it was not to these magistrates alone, but to every mayor and sheriff, that this power was extended. They knew something of these officers in Ireland, and he would put it to the Sec. for Ireland, if he were prepared to empower these men, who were under no controul, with such extensive means of mischief (hear, hear)? The abuses of the magistracy in Ireland was mainly attributed to the weakness of Lord Wellesley's administration. If the house would pay that attention which it ought to do to the subject, he had no doubt that it could either enable or compel the Irish Government to do justice in that country. The hon. gent. concluded with moving, that the bill be read a third time that day six months.

Mr. Doherty said, that he was not bound, standing where he did, to answer for any seeming inconsistency into which he might have been led as an advocate. The bounden duty of an advocate was to make the best of his cause; the duty of a senator was to maintain the truth. He maintained, that as far as the experience of seventeen years' attendance on the Irish circuits enabled him to judge, the administration of justice in Ireland was perfectly pure. He repeated, that the administration of justice in Ireland was perfectly pure, that the rights of the poor man were equally respected with those of the rich, and that no distinction whatever was made between Catholic and Protestant. He begged to call the attention of the house to the opinion of Sir John Davies:—"There is no nation of people under the sun that doth love equal and indifferent justice better than the Irish, or will rest better satisfied with the execution thereof, although it be against themselves, so as they may have the protection and benefit of the law, when upon just cause they do desire it." And again, "In time of peace the Irish are more fearful to offend the law than the English, or any other nation whatsoever." Such as the Irish were in the days of Sir John

Davies, they continued to be at present; and he would add, that Mr. Justice Day concurred in thinking the administration of justice in Ireland to be impartial. He mentioned several cases in which Catholic suitors had obtained ample damages against Protestants; and poor ones against the rich. Then, if justice could be done in Ireland between Protestant and Catholic, between poor and rich—equal, certain, and impartial justice—he entrusted that there might be an end of that unworthy slander which gentlemen were apt to cast upon the authorities of their country. He did not mean to say that the legal road was very smooth in Ireland—that it was quite clear, or that poor men could travel upon it without pain or cost; but where could they do this in England, or in any other country? It had been done in Ireland, and could still be done there, between man and man, without the aid of the Catholic Association.

Mr. *Baring* still believed, that in the present state of party, the impartial administration of justice in Ireland was impossible. Why, but a few years since, at Manchester, and again, after the riots at the Queen's funeral, the commonest court in England, the court of the coroner, had been found entirely inefficient. He did not believe that it would have been possible to get justice in Ireland, either in the late cases brought forward the other day by the Attorney-General, or in the proceedings that originated out of the affair in the theatre, where a bottle was alleged to have been flung at the Lord Lieutenant. The undue administration of justice in Ireland arose from the state of dissension existing there, and must continue as long as the present system lasted. While the Catholic claims remained undecided, he was sorry to see ministers coming down, year after year, with new measures of coercion, which must be wholly inefficient.

Mr. *W. Courtenay* said, that he had always voted in favour of the Catholic claims; but he supported the motion before the house, because he thought the Association one of the heaviest afflictions with which any country could be visited, as it interfered with the regular course of justice. It was incompatible with the spirit of the constitution, and ought to be put down.

Sir *J. Newport* denied that the Association interfered with the course of justice. The aid they afforded to the peasantry in obtaining justice for acts of oppression, was by no means unnecessary. It was proved before a committee up stairs, that magistrates were in the habit of receiving presents in kind from those to whom they administered justice. The witness who gave this evidence explained his meaning of "presents in kind," by saying that the magistrate who dealt out justice to the poor farmers had his corn reaped, his turf cut and drawn home, and other acts of service done by these poor individuals in return. Was this a system which looked like the result of a regular system in the administration of justice? With respect to the effects which the present bill might produce in Ireland, he held in his hand a letter from a most respectable Protestant, in which it was stated, that the papers announcing the first night's division had produced in the minds of the people the most intense anxiety. The writer concluded by expressing the most serious apprehensions as to what might be the effects of passing the bill. He had resided thirty years in Ireland, and no man was more

competent to judge of the probable effect of such a measure as the present.

Mr. *Goulburn* denied the imputation of partiality which had been made against this bill, and he appealed to the statute-book for proof, that the house had legislated to put down other societies. Hon. members seemed to forget the act passed in 1823, to put down associations of a particular description, by which the Orange societies, though not mentioned by name, were particularly aimed at. Besides, Orange societies exercised no direct interference in courts of justice, as the Association had done. It had been said that there was one law for the rich and another for the poor in Ireland. If that meant that there was a denial of justice to the poor man, he begged to deny the fact; but if it meant only that great inconvenience was felt by a poor man in prosecuting a suit at law, it was no more than was felt in this country, and was incidental to the condition of the poor in every state. With respect to magistrates, he would assert, and he defied contradiction, that there was no such thing as a disposition amongst them to take bribes for the administration of justice to the poor. There might have been cases of injustice and oppression on the part of magistrates; but whenever a case of the kind came fully before Government, there was no indisposition to remove such persons from the commission. In cases which affected the conduct of magistrates, and which became the subject of judicial inquiry, it was the constant practice of the Lord Chancellor to inquire into the merits of the case by taking the report of the judge who tried it, and to act by his opinion. This was done, in *Lawrence v. Dampster*. It had been said that the giving power to a single magistrate to enforce this act in particular instances, was without precedent; but the Convention Act gave power, not only to a single magistrate, but even to a peace-officer, to prevent or stop a meeting held contrary to the clauses of that act. In the present act that power was given to magistrates. Yet even on this point he was ready to attend to the suggestions which had been thrown out, and to make the presence of more than one magistrate necessary in certain cases; and he assured hon. members opposite, that from the first he was prepared to give his most patient attention to every suggestion by which the severity of this act might be mitigated as much as possible, without destroying its effect. He then proceeded to show that the statement made by the learned member for Winchelsea, regarding the conduct of Baron McClelland on one of the recent trials in Ireland, was utterly without foundation. The learned member had stated, that the acquittal of the soldier was attributable to the interference of the learned judge in preventing one of the witnesses from giving an answer to the question why he had omitted to state at the coroner's inquest that which he was then stating to the court. Since that statement had been made, he had received communications from the learned judge, and from two of the counsel for the prosecution. Now, on the authority of the counsel he could inform the house, that no such question had been proposed to the witness as was stated to have been objected to; and on the authority of the learned judge, that he had not put any stop to such investigation. The learned gent. had also made, upon what authority he knew not, another charge against the learned judge.



*Mr. Brougham.*—I made the charges on the authority of one of the counsel engaged in the prosecution.

*Mr. Goulburn.*—The learned gent. had said that the learned judge had not only forbore to defer a trial, the name of which was not mentioned, till the counsel engaged in it was sent for from another court, but had also refused to read over to him the evidence of the witnesses who had been examined previously to his coming into it. Now he had received a letter from the learned baron, stating, that as the name of the case had not been mentioned, he could not meet this charge with as positive a denial as he had done the former, but that he had no recollection of such a circumstance having occurred on the circuit, and that he believed that no such circumstance had occurred, as it was in direct opposition to the conduct which he had long been in the habit of pursuing towards the bar. It was his invariable practice, when a counsel was engaged in another court, and afterwards came in, to read over his notes to facilitate the cross-examination of the witnesses (hear, hear). After such a statement, nobody would again impute to the learned baron the glaring misconduct which had been attributed to him by the learned gent. (hear, hear). He was sure that the learned gent. would be the first to regret that he had been led by false information to employ the weight of his great eloquence in bringing such unfounded accusations against a judicial character, and he trusted it would teach him to abstain from depicting him in future as a person who was half a tiger and half another animal which the learned gent. had named, though unfortunately the word had not reached his ears (hear, hear). Such language was quite unwarrantable when used towards an individual of the learned baron's high station and character. No individual discharged his functions more impartially, or oftener interfered to prevent the recurrence of the violent party disputes which so frequently came before the tribunals of Ireland (cheers).

*Mr. Denman* had waited with impatience for some explanation of the learned baron's conduct; but the explanation that had been given was any thing but satisfactory. The learned baron had met the first charge with a denial. Now he could see no reason why the judge was to be believed rather than the barrister. The denial, on which the *rt. hon. gent.* laid so much stress, was only a repetition of what had happened on all such occasions (hear, hear). If a man were to be considered innocent merely because he denied the accusation brought against him, why should not the Catholic Association have the benefit of the doctrine? It had certainly every claim upon their indulgence; it had challenged inquiry into its conduct; it had offered evidence of its proceedings; that evidence had been rejected, and its guilt had been taken for granted, not only without producing any facts to establish it; but after shutting out from the public view every document except these miserable papers which were now poised in from every quarter to blacken its conduct and objects (hear, hear). Gentlemen on the other side had told them that they ought not to attack the absent. He wished that they would follow the advice they gave; and before they poured the vials of their wrath on the Association, would recollect that they had driven its members from their bar, and had not allowed them to refute the charges produced against them. It was,

however, ridiculous to talk of not attacking the absent, when it was of chancellors and of judges that they had to speak. When he found the Lord Chancellor acting as the head of administration, and putting language into the mouth of his colleagues which filled the country with astonishment, he should not be deterred by any invidious sarcasms from declaring his opinion of that noble lord's political proceedings. They were told that the noble lord, if his colleagues would not adopt his language, intended to resign. When gentlemen on his side of the house intimated their doubts as to that point, they were told immediately, "It must be so, for the noble lord is a man of honour and integrity" (hear, and a laugh). And yet the men who told them so were themselves men of honour and integrity, who agreed to adopt language as their own which they disapproved, rather than resign the good things of office (cheers and laughter). He then proceeded to argue against the bill, as calculated to excite lasting discontent in Ireland; and implored the house, if it wished to re-establish itself in the confidence of the people of that country, to put down this Association, not by fresh penal laws, but by the repeal of those which already existed (cheers).

*Col. Fords* bore testimony to the high character and impartial conduct of Baron McClelland as a judge, which he had an opportunity of knowing, as the learned judge went circuit in the county in which he resided. He further declared his intention of supporting the bill.

*Mr. C. H. Hutchinson* was for some time inaudible, owing to the noise and coughing in the body of the house. He said that he trusted, for the honour of the house, that they would hear him, for he represented a large body of men, who deemed this question of vital importance to the interests of Ireland. He proceeded, amidst much confusion, to reiterate his opposition to this abominable measure, which he considered to be full of mockery and insult to the Catholics. He trusted that if it were carried into a law in that house, the Catholics would not only petition the House of Lords, but in case it passed there, would petition the Throne to withhold the Royal assent. It was said that this bill was sanctioned by Lord Wellesley, but he could not imagine his Lordship possessed of such littleness of mind as to advocate a measure fraught with injustice to a great part of the community, and calculated to create disturbance throughout the whole country (hear, hear! and question). They had been told that it was the intention of Ministers to augment the army to the amount of 15,000 men. It was stated, that only 5000 men were required to be added to our force in India; and if so, he begged to ask what was to be done with the other 10,000 men (question, question)? Were they raised in order to—(question, question)? were they raised in order to—(the coughing and noise in the house rendered the other part of the sentence inaudible, although it was repeated two or three times). If they apprehended danger from abroad—and the great augmentation of the army strongly imported that they did—he would ask whether it was wise, whether it was politic, at such a moment, to enforce a measure which would offend and irritate near seven millions of their fellow-subjects (hear, and question)? He concluded by imploring the house to reject so unwise, so unjust, so impolitic a measure.

Mr. Peel began by some allusion to what had fallen from Mr. Tierney, in a former evening, with respect to Irish affairs, during the time in which he had been Secretary for Ireland. With regard to what had fallen on a former night from the learned member for Winchester, he now wished to repeat, as near as he could remember them, the very words he used in speaking of one of the most public acts of the Association. He said that they had committed an act of indiscretion, at least, by their address to Mr. Hamilton Rowan (hear, hear). He would now say, he had listened to the speech in which the learned gent. had commented on his observations with no feeling of hostility, and no other emotion but admiration for the splendid talents evinced by the learned gent. The charge of indiscretion against the Association he now repeated. The address made by them through their secretary on the same day with their address to the Catholics of Ireland, was an act calculated to excite the alarm of the whole Protestant community. The learned gent. had expatiated on the private character of Mr. Rowan; contending that he was an excellent father, landlord, master—that he fulfilled with unimpeachable integrity all the duties of private life. But had he impugned the private virtues of Mr. Rowan, or did the Association speak of them in their address to him? The Association addressed him as a man “whose life had been devoted, and almost sacrificed in the cause of his country.” He said at the time, and he now repeated, that this Address brought Mr. Rowan before the country, as a public character; and he was therefore liable to observations upon his public conduct. The learned member had described Mr. Rowan as a good father, a good landlord, and an amiable man in all the relations of private life. Did he deny this? He was as ready as any man to admit what the learned gent. had stated as to the private qualities of Mr. Rowan: but he spoke only of his public character; and he grounded his observations on the Report of the Secret Committee of the Irish House of Lords in 1794, in which it was stated, that Mr. Rowan was in communication with an emissary of France, and that he had subsequently been attainted of high treason. The learned gent. appeared, however, to think that the attainder would not have passed, had Mr. Rowan been heard against his accusers. He went further, and stated that Mr. Rowan had been received with courtesy by the Irish Government, and more particularly by my Lord Manners, whom the learned gent. had been pleased to designate as the pink of loyalty. It was true that Mr. Rowan had been attainted without having been tried; but the learned gent. should not forget the trial of Mr. Jackson, and the facts which were established upon that occasion. Was Mr. Rowan never called upon to answer for his conduct, and had the house no documents to go upon with respect to his conduct? Had they not an account of his trial, and sentence of imprisonment for two years? Had they not an account of his escape from imprisonment when he fled to France? Had they not also the Address published by the United Irishmen to the Volunteers of Ireland? Of that Society, Mr. Drennan was Chairman, and Mr. Rowan, Secretary. That Address was published during the French Revolution, when the National Convention was sitting, and when disorder and disunion prevailed in that country. What was the lan-

guage put forth by Mr. Rowan, as Sec. to the United Irishmen? The Address commenced:—“Citizen Soldiers, you first took arms to protect your country from foreign enemies, and domestic disturbance; for the same purpose it now becomes necessary that you should resume them.” The Address went on:—“Citizen Soldiers, to arms, take up the shield of faith, and the pledges of peace—peace, the motive of your virtuous institution. War, an occasional duty, ought never to be made an occupation; every man should become a soldier in the defence of his rights; no man ought to continue a soldier for defending the rights of others; the sacrifice of life in the service of our country is a duty much too honourable to be entrusted to mercenaries, and at this time, when your country has, by public authority, been declared in danger, we conjure you, by your interest, your duty, and your glory, to stand to your arms, and in spite of a police, in spite of a fencible militia, in virtue of two Proclamations, to maintain good order in your vicinages, and tranquillity in Ireland.” The learned Judge, in passing sentence upon Mr. Rowan, observed:—“At this period (1794) the great body of the Roman Catholics were seeking relief by dutiful addresses, stating they were anxious to be liberated from the restraints they laboured under; but you advised them to take up arms, and by force to obtain their measures. They were palpably to be made a dupe to your designs, because you say you will proceed to the accomplishment of your beloved principles, *Universal Emancipation and Representative Legislation*. Seduction, calumny, and terror are the means by which you intend to effect them. The volunteers are become instruments in your hands, and despairing to seduce the army, you calumniate them with the opprobrious epithet of mercenaries. You say seduction made them soldiers, but nature made them men. . . . . You called upon the people to arm—all are summoned to arms to introduce a wild system of anarchy, such as now involves France in the horrors of civil war, and deluges the country with blood.” The learned Judge went on:—“It is happy for you, and those who were to have been your instruments, that they did not obey you. It is happy for you that this insidious summons to arms was not obeyed; if it had been, and the people with force of arms had attempted to make alterations in the constitution of this country, every man concerned would have been guilty of high treason.”—He must again repeat, that in speaking of Mr. Rowan, he only spoke of him in his public capacity, and he could not help adding, that the Address of the Catholic Association to him was calculated to excite suspicion and alarm. The learned gent. had stated, that Mr. Rowan had been received in public and private society in the most cordial manner. He did not mean to contradict this, but he would refer the house to Mr. Rowan's own statement, after having received his free pardon, in the course of which he mentions, that during his absence his wife and children had been most kindly attended to by Lord Clare, who had been described by the learned gent. as one of his greatest enemies. Mr. Rowan, on being brought before the Court for his discharge, observed, in a splendid speech:—“When last I had the honour of appearing before this tribunal, I told your lordships I knew his Majesty only by his wielding the force of the country; since that period, during

my legal incapacity and absence beyond seas, my wife and children have not only been unmolested, but protected; and in addition to those favours, I am now indebted to the Royal mercy for my life. I will neither, my Lords, insist upon the rectitude of my intentions, nor the extent of my gratitude, lest my conduct should be attributed to base and unworthy motives; but I hope my future life will evince the sincerity of those feelings with which I am impressed by such unmerited proofs of his Majesty's beneficence" (cheers from the Ministerial benches). He had been charged with unfairly suppressing the fact of Mr. Rowan's having been received into public and private society. The learned member said, "You, sir, a member of the Irish Government, you a gentleman residing in Ireland, ought to have known the situation in which Mr. Rowan moved in that country; and," continued the learned gent., "you ought, as a member of that Government, to know that Mr. Rowan had been a Magistrate upon his return;—you ought to know that he had been received at the Castle as well by the prejudiced as the liberal Lords Lieutenant in Ireland. He had been received both by Lord Manners and Mr. Saurin, and they having found no fault, how dare you make an appeal against the beloved name of an individual whom the Government of Ireland have placed in the important situation of a Magistrate of the country" (hear, hear, hear)? For himself, he gave such credence to the statement of the learned gent. that he could not venture upon his own authority to contradict it. He therefore applied to the Hansard Office in Ireland, and the answer was, that after the most minute search, it was found that no such person as Mr. Rowan had been admitted to the Commission of the Peace for any county in Ireland for the last twenty years (repeated cheers from the Ministerial benches). He begged to assure the house, that in making this statement, he entertained no angry feelings towards the learned gent., but he would appeal not only to the house, but to the learned gent. himself, whether he had not by this simple statement, dashed from his hand that poisoned chalice which the learned member had commended to his lips (cheers).

*Mr. Brongham:* The rt. hon. gent. had commenced his speech in the most open and candid manner. He appealed to him and to the house with the utmost simplicity—and he repeated the terms "rash, indiscreet, equivocal," as applied to the conduct of the Association, in such a manner, that had no gent. in that house heard his former speech, the rt. hon. gent.'s statement would have perfectly answered his object. But, in his recollection, there dwelt an impression of that hon. gent.'s words so different in their spirit from the calm, candid, and plausible manner—so different from the tone of good feeling adopted to-night by the rt. hon. gent.—that he must declare that words less like than they were to what the rt. hon. gent. now spoke of, he had never heard. "Would they"—for that was the language of the rt. hon. gent.'s former appeal—"would they defend this Association, when on the very day of their declaration to the Catholic population of Ireland they issued an address, expressive of their love and veneration for an attainted traitor" (loud and continued cheering)? "Attainted traitor!" Those were the words. He appealed to the impartial men of that house, who mingled neither with one side nor the other, whether such were not the rt.

hon. gentleman's words uttered in the face of the country, without respect to the feelings of the individual, of his country, or his son? He appealed to the memory of the rt. hon. gent. after one week's recollection of what he had said (a laugh); he appealed to him, as placing himself in the situation of one of those gallant officers, whose distinguished bravery adorned a service, of which to be amongst its lowest members was, in itself, a high honour—and he asked, what must be the feelings of Capt. Hamilton when he heard his father publicly denounced as an attainted traitor (cheers)? Those were the words which roused his feelings, and which, perhaps, had roused them to excess. But there was not a word or a syllable which he had uttered on Friday last, that he was not prepared to use again. He had, on that occasion, defended Mr. Rowan. From that defence he did not shrink. He had defended the Association for mentioning Mr. Rowan, with respect and affection. That defence he was about to repeat. Although a week's reflection had considerably altered the tone of the rt. hon. gent., yet, with that exception, no part of the harshness or injustice of his original charge against Mr. Rowan and the Association was diminished. From that raking charge he was about again to defend them both. It was admitted by the rt. hon. gent. that Mr. Rowan had not been tried for treason—that he had been attainted without previous investigation. But then, a Mr. Jackson had been so tried, and the rt. hon. gent. thought that Mr. Rowan was implicated in that trial. But that was not all. The rt. hon. gent. said, that although the attainer of Mr. Rowan was not the result of a trial, that that gentleman had nevertheless been tried. But for what offence? For treason? For any offence which gave the rt. hon. gent. a right to call him an attainted traitor? No such thing: he was tried for a seditious libel. If the Association, however, had been wrong in putting an address into the hands of Mr. Rowan, because in troublesome and uncertain times he had written something that was deemed a libel, they had since committed another indiscretion of a similar nature. They first declared that they revered the name of a person who was convicted of writing a seditious libel, in 1794, and, thirty years' experience not having made them wiser, they confided their present petition to the care of an hon. bart. who had been declared guilty of a seditious libel, on very similar grounds, by a justly-judging and correctly-feeling jury; in consequence of which, he had been subjected to a long imprisonment, in the time of peace, on the very banks of that river, that washed the walls within which they were now assembled (hear, hear). Once for all, he said that he should not have felt any difficulty in those times, situated as Ireland then was, as an Irishman and a patriot, to set his hand to such a libel as that with which Mr. Rowan had been charged. It spoke of arming the people. That was in a country in which the Volunteers had been called the saviours of Ireland. What Mr. Rowan declared was, that the people should arm to defend their country, which was in danger. If he meant that they were not to stop after they had driven back the external foe, but were to proceed to obtain civil liberty, that was only what had formerly been done with the sanction of the Irish Parliament: that was only what the Volunteers of Ireland had done; that was only what, if it had not been done, would

have left Ireland degraded and enslaved. They were times in which the wisest and best patriots might have been exposed to danger. Not even Mr. Grattan was safe. A consultation had been held in the Privy Council, on the propriety of trying Mr. Grattan; and there was reason to believe, that his leaving his country to attend his duty elsewhere saved him from much trouble on that occasion. There were other charges, however, against the Catholic Association, and against Mr. Rowan. (The learned gent. was here interrupted by a loud cry of order!) He wished the hon. gent. who cried "order" would resume the deep slumber in which he must have been wrapped for the last half hour; for nobody who had been awake during that time, and had listened to the important discussion which had been proceeding, could have thought of interrupting it by a cry of "order." It was true that he had asserted that Mr. Rowan was in the Committee of the Peace; but he begged to observe, that that alleged fact he knew no more than the rt. hon. gent. knew, except from information which he had received only ten minutes before he rose on Friday, from persons connected with the sister kingdom. He had since seen the same persons, and had been told by them that they had seen Mr. Rowan's signature to an address of the most loyal, and therefore of the most unexceptionable character, under a title which might have misled any one, namely, "The Address of the undersigned persons, being Magistrates and Grand Jurors of the County of Down." It was evident, therefore, that the mistake was very easily made. It must have originated in Mr. Rowan's having signed the address in the capacity of a grand juror, not in that of a magistrate. He, however (Mr. Brougham), stood perfectly acquitted. Having received the information as he had received it, he was bound to communicate it to the house. So far was he from repenting of the statement, that he should have been ashamed of himself if he had not made it. But there were some other statements to make on this subject, which he had omitted when he last addressed the house. Whether Mr. Rowan were a magistrate or not, was only one circumstance. Let it be taken out of his defence, and that defence would still be impregnable. Mr. Rowan was restored to his family and country. Was not that enough? He received a free pardon: was that nothing? He regained all the rights and privileges of a citizen: was that nothing? He was allowed to act as a grand juror—to pronounce on bills for high treason: was that nothing? He was received at the levees at the Castle—was that nothing? One Lord-Lieutenant after another treated him with courtesy and kindness. To show what was thought of him by one Lord-Lieutenant, he was authorised to read to the house a letter from the Duke of Bedford—a man not more disposed to be favourable to the propagation of high treason than the rt. hon. gent. opposite, although they assumed to be the only defenders of the altar and the throne. These were the words of the Duke of Bedford:—"One of the first of my official acts was to recommend to the Crown to grant a free pardon to Mr. Rowan. No one act of my administration has ever given me more satisfaction, because I am convinced that a more honourable and respectable man does not exist in all Ireland" (cheers). Be it known, then, to the world, that the most grievous charge against the Asso-

ciation amounted to this—that although he was no magistrate, they had pointedly shown their regard for a fellow-citizen, than whom a more honourable and respectable man could not be found in all Ireland (hear, hear). His Majesty did that very thing, for which his Majesty's ministers accused the Catholic Association (hear, hear). When the Sovereign had received him at the levee, no man living could charge, no man living ought to charge the Association with indiscretion in manifesting their respect to Mr. Rowan. He repeated his opinion that this gentleman had been ungenerously, unnecessarily attacked, and he envied not the feelings of those who, perhaps to round a period, or at any rate to make an impression, could indulge in such a charge. One word as to the observations which he had made upon Baron McClelland. He had before given his reasons for believing in the statement which had been made to him respecting those transactions: he still believed in that statement. He had his information from a gentleman whom he knew, and who was of counsel in the cause. The answer of the learned baron, as reported by the rt. hon. gent. with respect to one of the cases, was specific—in the other, general and argumentative. He found nothing in either of the answers to alter his belief, or effectually to meet that statement. He had been accused of using strong language—of attributing to that learned person very extraordinary and almost indescribable baseness and cruelty. He had in the most marked manner introduced those expressions as some which were applied to the learned baron by an hon. member of the house:

"Non meus hic sermo, sed quem precepit Oseolus,  
Rusticus, abnormis sapiens, crassaque Minervâ."

He was not answerable for that description of the learned baron. It was given by one who knew him much better than he did. Whether just or not might soon be known, if it should be the pleasure of the house to inquire into it: an opportunity would soon occur. A gentleman was coming over to support a petition which had been presented two years ago, who desired to be allowed to prove at the bar of the house, certain charges of malversation against Baron McClelland. He had stated what he had heard and believed—what he still must believe—because of the defects in the answer of the learned baron. It was not necessary that he should add more to his objections against the bill. He deplored its progress deeply: he denounced it as the harbinger of ill: it was his unalterable opinion, that it would produce remediless mischief—that it would break up that short-lived tranquillity which they owed to the exertions of this Association. He called on the house once for all to pause. It was not a measure directed equally against Orange and Catholic Associations, but against Catholic Associations alone. He had hoped, if not for the substance, at least for the semblance of even-handed justice. The Orangemen were prevented from associating in secret, so were the Catholics. But the Catholics were also prohibited from meeting in public, in order to obtain any alterations in the affairs of church or state. Who ever heard of Orangemen wanting any alterations in church or state? They were only too glad to maintain things as they were; alteration would annihilate them and their hopes. The Catholics only had good

grounds for complaint. They alone wished for alteration. And this the house called justice! This was dealing equally between the parties! His last prayer was—if they would persist in this act of hostility to the Catholics—this grievous measure of injustice, which went to shut the gates of justice—he might almost say of mercy,—upon Ireland—that they would think deeply of it between this and Tuesday night. Then, if they were consistent—if they were not dead to the voice of justice, policy, and reason, late as it would be, yet not being too late, they would gladly retrace the steps which they had so madly taken, and they would give Emancipation to the Catholics (continued cheers).

Mr. Peel denied that he had on the last occasion on which this subject had been discussed, used any tone of peculiar harshness or vehemence. He now calmly re-asserted every single expression that had fallen from him last Friday. In the course of his observations on that evening, he had read a passage from the report of the Secret Committee, in which it was distinctly stated that Mr. Hamilton had been attained. What would become of the freedom of debate in that house, if such a proceeding were to be considered as justly censurable (cheers)?

The house then divided:—For the motion, 226; against it, 96.—Majority, 130.

The bill was then read a third time, and passed.

THURSDAY, MARCH 3.—Mr. Brownlow presented a petition from certain Protestants of Ireland, praying that the house would be pleased to institute an investigation into the principles and conduct of Orange Associations. The object of the petitioners was to clear themselves from the calumnies which had been heaped upon them as members of Orange lodges in Ireland. Mr. O'Connell had grossly libelled the members of Orange lodges, when he stated that they employed the two first verses of the 68th Psalm to express their enmity to the Catholics. The verse which was quoted by the Orangemen was that in which mention was made of the "bill of Bashan," and was used only as a sign by which they knew each other. He would take this opportunity of stating, that although he did not consider the bill which had lately passed through the house applied to Orange societies, because he did not think they were unlawful, yet it would have the effect, by putting down the Catholic Association, of putting an end to the former societies likewise. He believed he might venture to say, that when the Catholic Association should be no more, the Orange Associations would likewise cease to exist. He moved that the petition be referred to the committee for examining into the state of Ireland.

Lord Althorpe said, that a great part of what had been said of the Orange Associations was true; and that if Mr. O'Connell were not right with respect to the verse, he was with respect to the Psalm.

Mr. C. H. Hutchinson observed, that if the Orange societies had been misrepresented, it was the result of their own unwillingness to give any explanation of their views and proceedings. Sir A. B. King had refused to make any such disclosures two years ago, when examined at the bar of the house.

Mr. Peel said, that whatever objection he might have to the Catholic claims, no member of that

house had heard with greater satisfaction than he had the statement that there was to be an end of Orange Associations, and no man could be more sincere in exhorting the members of these associations to refrain from entering into a contest with the legislature. In looking at the petition, he had observed that it referred to the testimony which he had, in 1814, borne to the loyalty of the members of Orange societies. He was willing to bear precisely the same testimony as to the great body of those who belonged to those associations. But the loyalty of those persons could be no compensation for the evil which resulted from the existence of the societies. His advice to the members of the Orange societies was to avoid in future every appearance of entering into a contest with the legislature. With respect to what had been said as to many persons holding official situations remaining members of Orange societies, after the passing of the late act against them, he could state that they had done so for the purpose of allaying angry feelings, and exercising a beneficial influence.

Mr. Brownlow did not mean to say that Orange societies were extinct, but only that there was nothing more calculated to produce their total dissolution than the bill which recently passed through that house.

The petition was then referred to the committee.

LORDS, MONDAY, FEB. 28.—The Unlawful Societies bill being brought up from the Commons, and read a first time, numerous petitions were presented for and against it; amongst others, the Bishop of Bath and Wells presented a petition from the city of Bath, in favour of the bill, and against the Catholic claims, signed by 300 persons. The rt. rev. prelate also presented a petition to the same effect from the Archdeacon and clergy of the diocese of Bath and Wells. This last petition, which was drawn up in strong language, intimated in one passage, that the Catholics had covered their designs with a cloak of loyalty, which they had now thrown off, and were proceeding to threats.

Earl Fitzwilliam condemned the use of such language as that which the petitioners used, on account of its impolicy as well as its illiberality and injustice to the Catholics. He objected to petitions from the clergy for the exclusion of others from constitutional privileges, as coming from an interested body. If a rich corporation petitioned for objects which were supposed to favour its interests, why might not the army be allowed to petition in the like manner? He condemned all penal laws for opinions—all attempts to control the consciences of men. Such conduct was flying in the face of Heaven, and it was dreadful to think of the consequences which might follow from thus persisting in inflicting misery on six millions of human beings. He wished their lordships to recollect that the only pretext for this manner of proceeding was a conscientious difference of opinion in men who acknowledged the same Saviour, and, in all its great principles, the same faith as themselves. He pointed out passages of the petition which ascribed designs to the Catholics which the petitioners could not know to be true, and ascribed motives to them which they disclaimed.

The Bishop of Bath and Wells thought that the sentiments contained in the petition re-

fected credit on those from whom it came. He was not aware of any improper language in it. He could not see why petitions against a measure should not be received from persons whose interests might be affected by that measure. In the present case, he thought the clergy had as good a right to petition as any other class of his Majesty's subjects. If any thing could show the unreasonableness of such an exception, it would be the reception of a petition which professed to come from the whole body of the Catholic priesthood of Ireland.

Lord Holland would make no objection to the reception of this petition. He would receive it, notwithstanding the absolute falsehoods which it was said to contain—notwithstanding the gross allegations of improper motives with which it was filled—notwithstanding the spirit and temper which it displayed, and which he needed not to characterize (hear, hear). The petitioners in this case came before their lordships *humbly* representing their views and their fears; but what evidence did they give of Christian humility in their arrogant denial of equal privileges to their Christian brethren? They professed their regard for Christian establishments, but showed none to Christian charity. They broadly stated that the Catholics avowed the doctrine of the Pope's supremacy in civil matters—an assertion which the Catholics denied. They next asserted that the real object of the Catholics was to overthrow the Protestant Church establishment, and possess themselves of its revenues; and this the Catholics denied. It did not well become a body of men, professing to act under the influence of Christian charity, to suspect lightly the motives of others, even when there existed reason for suspicion; but no man with the least pretension to candour, or justice, or comprehending even the meaning of true charity, could impute bad motives to his neighbours while none existed, or ascribe designs to them which they disavowed. In every petition for Catholic Emancipation which he had seen, so far were designs against the Protestant establishment from being avowed, that they were distinctly disclaimed (hear, hear). In the general Catholic petition presented lately to the house, not only were such designs disclaimed, but the principles of civil and religious liberty were eloquently stated and enforced.

The Bishop of *Hertford* said, that the assertion about the Pope's supremacy was not made on light grounds. This doctrine was not disguised or disclaimed by the Catholics: it was openly avowed. There was a Catholic journal, extensively circulated among that body, which had lately asserted the doctrine in its full latitude. The editor, in speaking of a late ordinance of the King of France, disapproving of the conduct of a cardinal for compromising the liberties of the Gallican Church, said, that he could not agree with the views of the French Government on this occasion, because the King had no title to interfere with the conduct of the church to the injury of the indefeasible rights of his Holiness the Pope. The same doctrine was asserted by all the Roman Catholic priests of Lancashire. They made no scruple to say that the churches of this kingdom had been theirs once, and would soon be theirs again. He did not entirely approve of all the expressions in the petition (hear, hear). There were some that he would have been glad to see expunged, but it would be hard to refuse conscientious

men the right of making known their fears, and raising their voices in defence of our establishments, though they might, in their sincerity and honest conviction, employ a greater severity of terms than the occasion warranted. If he wanted any further excuse for such conduct, he might find it in what the world looked upon as a justification—a similar harshness of language in the opponents of the petitioners. The worthy clergymen of the Establishment who conscientiously discharged their duties were styled "hungry Protestant parsons" in all the publications of the Catholics. He could not sit silent while he heard the conduct of the petitioners arraigned, and motives imputed to them which they would disclaim.

The Earl of *Carnarvon* did not disapprove of churchmen petitioning on public measures any more than any other class; but he objected to their separating themselves from the great body of the people in their applications. But he must observe that the petitioners evinced the strongest bias, and were actuated by prejudices which led them to distort facts. They prayed that the house would protect our established religion, which was threatened with spiritual tyranny and oppression. What man could look around him in the country and witness the situation of the two systems, and say that the Protestant body were threatened with spiritual violence, oppression, and tyranny from the Catholics? He had always heard it represented that the tyranny and oppression were not only threatened, but inflicted from the other side. However that might be, there was certainly spiritual coercion. He regretted that the petitioners should have thrown such discredit on themselves and their order by the uncharitable nature of their allegations, and the falsehood of their assertions. They had justified Lord Clarendon's character of churchmen, who said, "that of all mankind, the clergy were, on general subjects, the least informed, and took the worst view of the affairs of the world."

Lord *King* expressed his belief that such a petition could not have come from any other corporation or place in the kingdom than from the wise men of the diocese whence it issued. Such a mass of nonsense could no where else have been concocted. The clergy in that town were entirely in the dark. They read and knew nothing. They had not even perused the liberal proclamation of the liberal King of Hanover. He wished the *rev. prelate* would take that proclamation and hang it upon every chapel door in his diocese (hear, hear). He would probably be asked by the petitioners, "What have we to do with Hanover," as it had been anciently asked "what good can come out of Nazareth?" He would say, much good could come out of Hanover, if the *rev. gentlemen* would read that liberal proclamation.

The Bishop of *London* presented a similar petition from the Archdeaconry of Colchester.

Lord *Cliffden* believed that these petitions could not fail to do good by attracting public notice to the state of the Church Establishment—to the enormous wealth of some of its members, and the poverty of others. The inequality of the division of church preferment was scandalous, some individuals possessing 20,000*l.* a-year, while others had only 25*l.* The petitions were then received.

THURSDAY, MARCH 3.—Lord Kenyon had a petition to present from certain Irish Protestants belonging to Orange Societies, who thought themselves greatly calumniated and injured by the bill now before their lordships, and who anxiously wished for an opportunity to vindicate themselves, either before the committee now inquiring into the state of Ireland, or in any other manner in which their lordships might permit them to be heard. They stated these Societies of Orangemen had existed for a long period, and that many persons in parliament, and connected with the government, had often expressed themselves favourable to their principles, and satisfied as to the propriety of their conduct. They mentioned that their conduct had been spoken of with approbation by two generals commanding in Ireland (Lake and Knox), by a lord-lieutenant, and by a high civil authority (Mr. Peel) in the House of Commons, in 1814. Their lordships would recollect a bill which passed some time ago, which related particularly to the Orange Societies of Ireland, describing certain ceremonies which it enacted should be suppressed. With that respect to the law which always distinguished the Orangemen of Ireland, they paid full obedience to that statute; and they now thought it extremely hard that a bill expressly introduced for the purpose of suppressing another society, by no means distinguished for devotion to the laws, should be so framed as to apply equally to them. Why not frame the bill in such a manner as to make it apply only to those who were the real objects of it? He hoped that their lordships would allow them the opportunity of redeeming their character, for which they prayed.

The petition was referred to the committee on the state of Ireland.

The Earl of Caernarvon rose to present a petition from certain persons composing the Catholic Deputation, then in London, praying to be heard by counsel against the Unlawful Societies bill at their lordships' bar; and to move that their prayer be granted. He conceived, that like all individuals who were about to be affected by a proceeding before the house, the petitioners were entitled to be heard. This principle had always governed their proceedings, and should be strictly adhered to by that house, which was the highest tribunal of justice in the kingdom. His Majesty's speech had charged the members of the Association, with having "adopted proceedings irreconcilable with the spirit of the constitution, and calculated, by exciting alarm, and by exasperating animosities, to endanger the peace of society." Was not this a serious charge, coming, as it did, from the throne, and must not members of the Association consider it an imputation which they must be desirous to remove? Surely such charges entitled the individuals accused, to be allowed to come before that house, in order to prove that the imputations cast upon them were unfounded. Their lordships had no other means of ascertaining the truth of the representations which had been made of the conduct of the Association. Much of the information they were supposed to have had on that subject must have reached them through polluted sources, which could not be depended on. He

was therefore instructed to say, that one of the objects of the petitioners in asking to be heard by counsel was, that they might have the opportunity of laying before the house the authentic minutes of their proceedings from the first day of their meeting to the present hour. Those minutes would show that there had been nothing censurable in their conduct—nothing which could subject them to the charges in his Majesty's Speech, which had been made the ground for bringing in the present bill. He knew not, therefore, how the noble earl (Liverpool) could justify a refusal of the petitioners' request: especially when their lordships were so careful, in other cases, as to personal interests, that they would not pass a bill to exclude a goose from a common until the owner was heard. But it was said that the petitioners had no personal interests at stake—that the measure was altogether of a public nature—and that it was not the practice to hear counsel against such a proceeding. If the petitioners had no personal interest—if they complained of no injury to themselves, this argument would be good; but these were men whose individual conduct was called in question, and who were charged with offences of the gravest kind. Had they no interest in the removal of such extraordinary imputations? It was impossible to deny that they had an interest of the most pressing kind. He must observe, that with respect to this bill, they were legislating in the dark. They might, however, easily obtain information; and ought not, for their own sakes, to refuse any evidence which was offered. Notwithstanding what had been said in the Speech from the Throne, all that they regularly knew of the Association was, that, since its meeting, tranquillity had been preserved in Ireland. Was it reasonable, then, to expect the same effect from putting it down? The necessity for obtaining information before they passed this act, was materially increased by the distance of the country and the persons, it affected. It was to affect the people of a country of whose true interests he feared many in that House were not informed—a people whose habits were very different from those with whom their lordships were more intimately acquainted. On all former occasions, when it had been proposed to pass a measure of this sort, in this country, it had always been the practice to precede it by a committee of inquiry. If, then, information was thought necessary before a measure affecting the people of this country could be adopted, how much more were their lordships bound to require it in the present case? This was the more imperative when it was considered that the Association had not only the great body of the Catholics in its favour, but that its leaders were among the ablest men in the country. From the petitions which had been laid on their table, their lordships knew to what extent it was supported by men of wealth and rank. Until better information was obtained, it was ridiculous to assert that the Association was dangerous to the country. If their lordships inquired, it was probable that the result of the investigation would produce important information. It was possible that some legislative measure might be found necessary; but, in the first place, let the house ascertain the real nature of the evil which had been pointed out in his Majesty's Speech and determine whether it required a

remedy, or not. He wished for their lordships' own sakes—for the interests of Ireland—for the interests of this country—that they would not refuse inquiry. What, if the result should be, that it was not the Association which exasperated animosities, endangered the peace of society, and retarded the course of national improvement, as described in his Majesty's Speech? What, if it should be found that these evils were not attributable to them, but to others? If this should prove to be the case, why should we not return the ingredients of the poisoned chalice to their lips who were the real authors of the evil? Of this he was certain, that if they allowed the petitioners to plead their own cause, they would do much towards laying the foundation of permanent peace. If this were necessary for the tranquillity of Ireland, it was no less so for the security of Great Britain. England and Ireland must stand or fall together. They were united by nature; for England seemed placed in the midst of the subject ocean to protect her surrounding neighbours. But as long as Ireland was not cordially united with us, one limb of the empire was paralysed, and our vigour was imperfect. He saw no reason why Ireland should not equal the prosperity of England; under proper management it would probably be the most prosperous country in Europe. Their lordships were bound to inquire, whether it was not others who interrupted the peace of the country, and retarded those national improvements which might give to Ireland that degree of prosperity and wealth which was consistent with the number and the character of her population. He concluded by moving that counsel be heard against the bill.

The Earl of *Liverpool* conceived that, if their lordships acceded to this motion, they would give up all those general rules by which their practice had hitherto been guided, and would establish a dangerous precedent. The bill before the house was a measure altogether general. It did not even name the Association. He did not mean to deny that the conduct of that body afforded a ground for passing the bill; but unquestionably it was equally directed against all associations. It was, as the preamble stated, introduced for the purpose of preventing the evasion of a former act. This being the object of the bill, if every individual who might allege that he was aggrieved were to be heard against it, their lordships would never get to an end. If individuals were allowed to come forward and state reasons against the passing of general measures, parliament could never legislate. When any special pecuniary interest was supposed to be affected by a measure before the house, individuals so situated might be heard; but they were heard on their special interests only. What bill was there with regard to which a similar application might not be made, if the claim of the petitioners were allowed? If this Association were to be heard, every other society would have an equal claim, and their lordships might pass six months in hearing counsel. It had been said, that on all former occasions, before passing any bill of this kind, their lordships had instituted inquiries, and adopted the measure on the report of a secret committee; but this measure was grounded on the notorious nature of the proceedings against which it was

directed. Indeed, there was not a fact respecting the conduct of the Association relied upon as a ground for this bill, which he was not prepared to give up if any noble lord would say that he knew it to be untrue. The petition, therefore, demanding to be heard against it, if granted, would only open the door to great delays and inconvenience. But he would say that if ever there were a case in which no ground could be stated for a departure from the common rule of refusing to hear particular parties on general measures, it was this. It was well known to their lordships that ministers had concurred in the utility of a general inquiry into the situation of Ireland. A committee had been appointed for conducting that inquiry by each House of Parliament; and he would ask all who were acquainted with the manner in which those committees conducted their proceedings, whether the best disposition was not shown to go into the investigation fully, and impartially, and to hear all the evidence that was likely to be useful. To those committees persons of all parties were welcome; and if any other inquiry were instituted with reference to the bill before the house, he did not see why the members of the Catholic Association alone should be heard. A noble friend (Lord Kenyon) had that night presented a petition from certain Protestants of Ireland, called Orangemen, who prayed likewise to be heard at the bar of the house respecting this bill, and he did not see how their prayer could be resisted, if that of the Catholic Association were granted. Both sides were invited to come before the committee of either house now sitting, and they would be heard. Considering, then, that there was no ground laid for compliance with this petition—conceiving that the provisions of the bill were of a general character, against which no man's particular interests entitled him to be heard—conceiving that the notoriety and undeniable nature of the facts were sufficient to warrant the legislature in its proceedings, he did not see why their lordships should establish an inconvenient precedent, which could not in this case lead to advantage, and which might be claimed in favour of all parties as well as of one. He thought he best discharged his duty by resisting the motion (hear, hear).

Earl Grey: Feeling that a more unanswerable appeal had never been made to the justice of the house against a measure which would condemn the petitioners without proof,—which calumniated their intentions without hearing their justification, and which, through them, imposed restrictions on the general rights of the people, on allegations the falsehood of which they offered and pledged themselves to establish, he should vote for the motion (hear, hear). He must begin by expressing his surprise at the ground taken by the noble earl, which he could not consider a very manly one, in contending that the bill was a general measure—that it was not particularly directed against the Catholic Association—and that the petitioners had therefore no reason to complain. On other occasions, when measures like this were directed against particular societies, they were named in the bill; a proceeding which excluded any pretence of the kind now set up. The Catholic Association was as exclusively the subject of this bill, as if its name had occurred in every clause of it (hear, hear). The fact was so notorious, that all petitions which had been



sent in favour of the bill, spoke of the Catholic Association alone. Away, then, with the miserable quibble about the extent of the measure. Let not the house shelter itself, in resisting the prayer of the petitioners, under the dishonest pretext that the Catholic Association was not the exclusive object of the bill. Their lordships had heard of Orange societies which might be affected by the measure, and a petition had been read from certain parties who claimed that title; but did they complain of the bill? No; they knew that it was not directed against them; and, therefore, they did not endeavour to arrest its progress. They only prayed that they might have an opportunity of rectifying certain errors, or repelling certain calumnies, to which its introduction had given rise, before the committee (hear, hear). Taking, then, the Catholic Association as the undoubted object of the bill, he would ask, on what ground it was enacted? The Speech from the Throne, and the speeches afterwards delivered in its support, alleged the most grievous charges. It was said that the Association had erected itself into a Catholic parliament—that it had usurped the power of the legislature in levying taxes—that it interfered with the administration of justice—that it had become a source of alarm and danger, and therefore must be put down by this bill. He would ask what stronger charges could be made against any body of men? Ought the petitioners to be heard against such charges, or could the house justly proceed to legislate on the supposition of their truth, when the petitioners offered to prove that they were unfounded? But the noble earl said that he went on the notoriety of the facts, and that if any fact which was alleged was denied, he would admit the denial without hearing evidence of the truth. What said the petitioners? They met those facts with a denial. They said, "Your opinions are erroneous—your charges are false; give us an opportunity, and we will prove it." His noble friend had truly said that the most trifling right of common could not be taken away without hearing the party affected: and were the whole people of Ireland to be mulcted of their privileges; were a whole religious community to be punished, and, through them, the general liberties of the empire curtailed, without allowing them to come forward to explain and justify their conduct, to support their rights, to defend their characters, to remove error, and to repel calumny (hear, hear)? It had been said in the King's Speech, that "the Association had adopted proceedings irreconcilable with the spirit of the constitution, and calculated, by exciting alarm and exasperating animosities, to endanger the peace of society, and retard the course of national improvement." These were grave charges, and ought not to be believed without strong evidence. The petitioners offered to disprove them. They declared that their measures, so far from exciting alarm, had been the cause of tranquillity and confidence. They declared that they had been so far from exasperating animosities, that the country was never so quiet as since the commencement of the Association. In answer to the charge of checking improvement and retarding prosperity, they appealed to facts; to the embarking of new enterprise, and the employment of fresh capital in Ireland; and they even claimed support in this appeal from a most important declaration in the Speech in

which the charge against them was made (hear, hear). They had been subsequently accused on other grounds, to which they offered the same triumphant contradiction. It had been said, that they levied taxes on the people of Ireland. Their answer was, "We levy no taxes—we only receive voluntary contributions, which we expend on public and laudable objects, and which are so far from being exacted by force, that they are the best test of the good-will and confidence of those friends who supply them" (hear, hear). But it was said that there were two books kept, a black and a red book—that the names of contributors were inserted in the one, and of those who refused to contribute in the other—that neither peace nor security could be enjoyed by the latter, and that though no legal force could be used, these taxes were any thing but voluntary. The petitioners gave a direct contradiction to this charge, and offered to prove its falsehood at the bar of the house. Since such was the calumny with which they were assailed, and such the bill founded on that calumny, had they not a right to disprove the calumny, that they might ward off the intended punishment? "But," said the noble earl, "there was no necessity for hearing the petitioners at the bar, as the house had already appointed a committee to enquire into Irish affairs. Let Mr. O'Connell present himself there, and he would be sure of a hearing." This was the most extraordinary recommendation he had ever heard. The bill, of which the petitioners complained, would have passed before they could enter that committee. The noble earl had said, that when ministers had proposed any general measure of restriction—such as some of those disgraceful bills suspending or curtailing public liberty, of which we had of late too many instances—they had presented papers to committees, and on the report of those committees the bills were introduced. But did any body ever hear of the restrictive bill first, and of the inquiry afterwards? The noble earl proposed to invert this order. The committee on Irish affairs was now sitting. The petitioners were referred to it, and he would advise them to accept the proposal, provided the noble earl would suspend the progress of the bill till the committee made its report (hear, hear). Let the petitioners be allowed to go before that committee—and to be there heard, before this bill was read a second time, and he would admit that there would be a show of justice in the noble earl's proposition. But to pass this bill, and then hear the petitioners against it—to punish first, and to try afterwards—to decide on a question, and then receive the evidence on which the judgment ought to be formed, was such a preposterous course, that he could scarcely express his surprise at the proposition (hear, hear). Suppose that the petitioners should succeed in proving before the committee, that all the allegations on which the bill was founded were false; and suppose in the meantime the bill had passed on the avowment of their truth; in what a situation would the house be placed! They would have passed a law, imposing restrictions on the rights and liberties of a great body of the people, and they would find that it was as unnecessary as it was obnoxious. As to the argument, that no particular individuals had a right to be heard against a general measure, it did not apply to the case. The rights of the petitioners were affected, and the justice

of their demand to be heard was not lessened by the extension of the evil to others. As to the possible inconvenience of hearing parties in certain urgent cases, such cases would bring their excuse with them. Here there was no such urgency. The petitioners pledged themselves to disprove the allegations on which not only their own rights were curtailed, but popular rights invaded, which had remained untouched since the Revolution. He was satisfied that there never was a case in which they were called upon by so many powerful considerations to listen to the prayer of the petitioners, and therefore he would vote for the motion (hear, hear).

The *Lord Chancellor* began by stating, that a report had gone abroad that this bill was his, and he had been appealed to respecting its provisions. Now, though it had his most perfect concurrence, he was not the author of it; and although he had for some time been acquainted with its nature and objects, he had not even seen it till about eight hours ago. The Convention Act, of which this bill was an extension, was still in force in Ireland. What might be the law in Ireland with respect to the enforcement of that act, or any other act, he did not pretend to know, and therefore he could not state whether the proceedings of the Association were legal or not; but, according to the law of England, he thought the Convention Act would have reached them. When a society, committee, association, or other body, which represented, or assumed to represent, the people, under pretence of petitioning for an alteration of the law in church or state, was illegal, because it had been elected or constituted by the people so to represent them, he conceived it would be equally illegal if it pretended so to represent them, and performed in their name any acts, for which they subsequently received, or professed to receive, the sanction of their approbation. The evil to the community would be the same; and the evasion of the law, by avoiding direct delegation, would not be allowed. There had been a good deal said as to the parties which this bill was intended to affect. If the sole object had been to put down the Catholic Association, he would have wished the name of the Association to have been inserted in the bill (hear, hear). When upon a well-known occasion he had introduced a bill into the House of Commons, for putting down the Corresponding Societies, he introduced the names of those societies. This bill enacted, that every society in Ireland, corresponding with the description in the bill, should be deemed illegal, though not previously delegated or elected. Now if the Association had assumed a representative character, and had gone the length of taxing the King's subjects; if they had instituted a control over the administration of justice—it could not be endured that such a body should exist. Commanding subscriptions as they boasted, from six millions of people, where was the possibility of executing the laws or maintaining submission to authority? If the Catholics could form such an association, why not the Protestants? And if both were thus arrayed in parties, whence could jurors and witnesses be drawn, who would not all be liable to a challenge? With regard to hearing the petitioners at the bar, he must observe that the bill was a general one, and the rule in such a case was against the terms of the motion. Even in the case of ex-

cluding the goose from the common, a party could not be heard unless he made out a special interest. No man or body of men could be heard against the proposed enactment of a general law. There might be exceptions, but this was the rule: and Parliament might act on the exception or the rule. Cases might be put of a law passing both houses in one day, and that law affecting individuals; but the urgency must excuse the breach of principle. In some cases the danger might be so imminent, that if common forms were observed, the law might pass too late to meet it. The general rule applied to the present bill. The measure affected the Association by containing a right description of its constitution and objects. No evidence which the petitioners could offer should be allowed to delay the enactment. If it did not affect them when enacted, they would suffer no grievance, and therefore ought not to be allowed to oppose a general act which did not concern them. If it stopped them, they were doing what they ought not to do. If they were by the mere absence of direct delegation evading the provisions of the Convention Act, while they supported the character of a Convention, the present bill would supply the remedy (hear, hear).

*Lord Holland* said that he had no sooner read the bill than he recognized it not to be the work of the noble earl on the woolsack. He would go further, and say, not only that it was not the noble earl's, but that he was persuaded the noble earl had never read it (a laugh). Nobody denied that, to usurp the powers or overrule the authority of Parliament, was illegal. But had the Association done this? If the petitioners were heard, they would show that they had not controlled or overruled Parliament. They would show that the money they levied was employed for laudable purposes. Whatever might be the case in England, in Ireland the universal practice had been in favour of the prayer of the petitioners. But, independent of all these precedents, the great principle on which he should give his vote for hearing the petitioners at the bar was that of substantial justice, mixed with a generous consideration towards their peculiar situation. He was astonished at the noble earl, when he asserted that this bill was not directed against the Catholic Association—he was astonished at the assertion, for he confessed he had a great private friendship for him, and did not suspect him of resorting to a subterfuge or equivocation for any passing purpose of debate; nevertheless, it was impossible not to see that this bill was levelled at the Association. "Oh," said the noble earl, "why hear the Catholics? God bless me, they are not even named in its inhibition; this is a general bill—a measure not against any particular class, but intended for the general good of mankind." This was to quibble with a great question. They were called on to pass this bill on notoriety—newspaper notoriety. Ought not the Catholics to have the same benefit of notoriety in their favour, that was urged by their enemies against them? And was it not notorious that this bill was solely meant to affect the Catholic Association? To be sure, if the petition were complied with, they would have to deal with tangible evidence, with the speeches of advocates, of learned and eloquent men capable of exposing sophistry and detecting truth at their bar; and if this inconvenience could

be avoided by the omission of a name, a most convenient way was discovered of sweeping away the rights of the people. He conjured the house to bear in mind, that no documents had been produced in support of the bill—no grounds laid for it, better than loose, interested report, controverted by the parties who best knew the truth, and who offered it to the test of rigid inquiry at their bar. He had a high opinion of the eloquence and talents of the learned gent. at the head of the Association, and he believed there were those who felt, that if that gentleman were admitted to their bar, he might possibly make some impression upon their lordships, fatal to the progress of this bill. At all events, if he were heard, it would give the unfortunate objects of the bill the consolation of knowing that their case had, at least, been argued. Sure he was that if that learned gent. had the eloquence which once shook Greece to its centre—if, instead of being what he believed him to be, the honest advocate for the stability of the two countries, he united the intentions of Catiline to the eloquence of the ancient orator—that he would be incapable with such combined powers of mischief to do half the injury that their lordships would do, by rejecting his claim to be heard (hear, hear). He appealed to human nature in support of his argument. Which did the most harm—the language uttered, or the grievance felt (hear, hear)? Let them remember that the great Franklin had rejoiced on being sent from their bar, unheard and insulted. If they really meant to confute and silence the detractors of Government, let them in the first place be just—if they wished to compose and allay the jarrings of party animosities, let them be conciliatory, indulgent, and generous; but above all, let them not on the faith of miserable precedents, ill quoted and worse understood, overthrow that great first principle of reason and justice—to hear before they condemned (hear, hear, hear).

Earl *Darnley* implored the house to pause before they decided upon sending unheard from their bar those who came to them as supplicants for justice against oppression, on the part of a large body of their suffering fellow countrymen. He hoped the house would open its eyes to the best means of securing the real strength of the empire.

The house then divided,

For the motion 23—Against it 69—Majority against the petition, 46.

The *Earl of Liverpool*, in moving the second reading of the Unlawful Societies bill, distinguished the present question from that of Catholic Emancipation. The bill before the house rested on grounds so distinct and different, that he sincerely declared, if he were the warmest friend of Emancipation, he should still say that this bill was necessary. In a preceding debate a noble earl (Grey) had accused him of not taking a manly course on the present occasion, inasmuch as he had not avowed that the bill was directed solely against the Association, but had argued it as a general bill. Now he had uniformly avowed that the Catholic Association was the principal object of the bill; but he said now, as he had said before, that though a specific evil might be the cause of a particular measure, yet, when that measure comprehended other objects, it ought to be dif-

ferently considered as to its principle from a measure of single operation, and with a single object. There were strong reasons when they were to legislate against the Association, that they ought also to include all other societies having an illegal tendency—for instance, Orange Societies, and such, under whatever denomination, as were calculated to disturb the peace of Ireland. In that view he submitted this bill; he did not deny that the prominent object of the bill was directed against the Catholic Association, but it was coupled with a sweeping operation, which equally denounced all other bodies, acting upon a similar principle. The question, then, was to be taken in two ways: first, as to the evasion of the Convention Act; and next, as to its own merits, namely, the danger of the Catholic Association. In arguing this part of the question, he was ready to admit, that if the Association were in itself no evil, it would be impolitic to extend against them the provisions of the Convention Act. Without at all desiring to speak harshly of the Association, he had always thought that such institutions, in a country like Ireland, were utterly inconsistent with public tranquillity. He denied that the suppression of such societies was inconsistent with the free constitution of the kingdom. He admitted as broadly as any man, the right of the people to assemble for the purposes of appealing to the legislature for a redress of grievances, and of meeting and stating their opinions with a view of securing for their petitions a reasonable effect upon the minds of the constituted authorities to whom they were addressed. These were among the most sacred privileges of the subjects of the British empire. But he asserted that an assembly, not meeting for the purpose of petitioning—an assembly whose sittings were permanent—which met for the redress of unspecified grievances—which levied taxes, voluntarily or compulsory, it did not matter which—which interfered with the due administration of justice, whether beneficially or not he would not say—was inconsistent, not alone with the peace of Ireland, but of any other country in the world. It was impossible not to look at the circumstances under which this Association had been formed. The people of Ireland might think they laboured under grievances for which they were justified in seeking redress from the legislature. They might be dissatisfied with the remaining exclusions by which they were affected—and they might justly state their case to Parliament, where alone redress could constitutionally be sought. But could any man deny that more had been done for promoting the happiness of that country within a short space of time, than had been done by preceding Governments, for centuries before (hear, hear)? The revenue system had been completely reformed, to the entire satisfaction of those who were loudest in their complaints against it. Taxation had been reduced in Ireland to an unparalleled degree—her direct taxes were swept away, and she paid fewer imposts than almost any other country in Europe, while England had taken upon herself the whole of the debt. The administration of justice had been revised,—the magistracy had been reformed, and petty sessions established, every disposition had been shown to suppress those societies which had a tendency to produce civil dissensions. He stated those facts as a proof of the kind dispo-

sition of Government towards Ireland, and to show that no glaring evil existed, which required the establishment of a perpetual organ, like the Catholic Association. Yet, in this state of things, that body had been organized, and assumed a greater influence than had been exercised by the Catholic Convention, avoiding the letter of the law enacted for the suppression of the latter, but preserving virtually and fully, the evil of delegation, against which that law was directed (hear, hear). Their intent was proved by their acts, and the evasion of the law would be complete, if the legislature did not interpose its authority. In arguing this question, he meant to avoid any discussion of the particular proceedings of the Association. He believed it to be constituted in the same way as any other body of the sort would naturally be. Such assemblies were generally composed of various materials. Many well-disposed men were usually to be found among them, and the great majority never paused to contemplate the evils to which their proceedings led. His objection therefore to the Association was a general one; it was, that no such body could exist without producing evil. He agreed that it would be often unfair to analyse parts of the proceedings of such societies; for some evil they must necessarily produce. Some noble lords might think this society a good instrument for effecting a particular purpose—the best way, for instance, of promoting Catholic Emancipation; but he would ask those noble lords, if they thought a body like this would stop with any specific question: the Association had set no limits to its sphere of operation. On the contrary, they had heard, —he knew not on what authority, although the statement had certainly gone forth—that some communication had been made to them, that if the Catholic question would satisfy them, they should be satisfied, if it would separate. They replied that Emancipation would not satisfy them. From this it would appear that there was to be no end to their proceedings; and that if their professed aim were accomplished, their existence might still be prolonged for ulterior and unknown objects. He said this without reference to individuals: the nature of the evil was in the constitution of the assembly itself; and consequences must ensue, which no government could or ought to tolerate. He defied any noble lord to prove that such a body was ever permitted in a regular government. He would pass over the details of their discussions and debates, and come to the material feature of their system—the Catholic rent. The very name, its essence, nature, and definition, implied an obligation, and he could hardly think that no expressive name had been hit upon accidentally. But call it rent, or subscription, or what they would, it was any thing but a voluntary contribution. Though there existed no legal right to enforce it, yet where the country was cast into factions, and the appeal made to their sincerity, their zeal, or their passions, it was a farce to call it any thing short of compulsion. Who were the instruments for carrying the collection into effect? It was collected by the Catholic clergy, in the Catholic chapels. Who, then, who knew the connexion between the Catholic priest and his flock, could doubt what this subscription was? He had even heard of an instance where a peasant had been distrained

upon for non-payment of this rent; but the quarter sessions had interposed, and protected him from the exaction. He did not press this subject for more than it was fairly worth in his argument, nor did he wish to touch upon the attendant circumstances, the registration, whether in black or red books; for, in such cases, where the whole population were to pay, each man knew how far his neighbour had contributed, and each was a check upon the other, without any extensive machinery of account keeping. Some paid this money for religion—others for policy; and he believed that nine out of every ten subscribers paid to avoid being looked upon with an evil eye by their neighbours. He appealed to every man's good sense, of whatever party, whether such must not be the case from the very nature of things? But what were the objects of this Association, permanent as it is, with revenue at its disposal, and avowedly interfering in the administration of justice? What an engine was it likely to become! Take the millions of population said to be under their control, and then let them estimate the danger. He remembered a saying full of wisdom which he had heard from Mr. Fox, on some question relative to the Dissenters. "I hate," said that eminent individual, "the tyranny of the few over the many; but there is one thing which I abhor still more, the tyranny of the many over the few." He applied this wise saying to the present case, and asserted that the more formidable the body, the more intolerable its existence was capable of becoming in the State. He now came to two arguments which had been used in the course of these discussions—first, it was said this Association had done no harm; and secondly, it was declared to have done good. As to the first, he would appeal to those who lived in Ireland to say, how exasperating the effect of this Association had been upon party spirit throughout the country, and how it had generated factious feelings of all kinds: with respect to the second argument—its doing good by promoting, as had been asserted, the tranquillity of the country—he should not, if it had done so, be the less disposed to denounce it on that account. If a body of this description had the power of promoting tranquillity, it must equally be capable of producing disturbance; and in either case he did not choose that the peace and tranquillity of the state should rest upon the prudence, discretion, or temper of any such body. Again he begged to observe that he did not accuse this Association, or any of the particular individuals who composed it, of bad intentions; but if he could have supposed that there were amongst them any who meditated mischief, he should give them no credit for the avowal of their peaceable intentions. The first object of those who meditated rebellion was to preach up peace and tranquillity! Nothing was so fatal to insurrection as a premature rising. Conspirators had a deeper interest in promoting peace than any other individuals. He referred to the history of Ireland in the year 1798. The principal men who were engaged in the rebellion of that year, were, up to the moment of the explosion, preaching peace to their fellow-countrymen. The rebels attributed their defeat to the premature violence which had roused them into action before their time; and a member of the Irish House of Commons had taken credit

for himself and his party in having produced the insurrection before it was ripe. It was, therefore, by no means reasonable to conclude, that men's intentions should be taken exactly in the manner in which they chose to put them forth. As to the present state of Ireland, it was owing in some degree to the measures of its Government; not at all to the Association, and chiefly to the returning prosperity of the empire. In England, two or three years ago, temporary distress had led to petitions and meetings; reform was called for in our institutions—reform in Parliament—reform in financial policy. All this vanished at the return of prosperity, which engaged the industry of the country in the pursuits of commerce and agriculture, and put an end to those gloomy speculations. In Ireland there was a powerful check to her growing prosperity, in the habitual vice of idleness which afflicted the people. The industry of the country, aided by its capital, would urge them forward to something better. In the meantime they must be alone—their minds must not be influenced by the discussion of these angry questions. He owned that there was difficulty in legislating upon this point. He was not sure that this bill would prove a sufficient remedy, but he thought it not unlikely that it would. In 1796, a noble and learned friend of his had brought in a bill to prevent seditious meetings. It was then averred that the bill would be evaded, and he himself had been led, by a very ingenious speech which he had heard in the other house from Mr. Sheridan, to believe that it would be. It was, however, perfectly effectual. The same argument had been applied, followed by the same consequences, to one of the Six Acts. He could not persuade himself that this bill would be defeated in Ireland, after Parliament had solemnly pronounced its opinion upon the law, and give the whole weight which the expression of that opinion could inspire, to the law itself. But if it were likely to prove ineffectual, he would still advise the house to adopt it; for if nothing were done, other parties would form counter-associations. They could not say to the Catholics—"You may associate;" and to the Protestants—"You must not;"—they could not allow the Catholics to combine, and forbid it to the Protestants. Let them not suppose that the Protestants, though fewer, were so contemptible in numbers, wealth, and power, as not to constitute a formidable society. In what a state then would that country be, when arrayed in two great hostile parties! Let them at least have it to say that they had done their best to secure the tranquillity of Ireland. His noble and learned friend (the Lord Chancellor) had wished that the Association had been expressly named in the bill. After mature consideration he had come to an opposite conclusion. It was omitted to show that Parliament intended to deal equally, by putting down all such associations.

Lord King complained that the cases upon which Administration had depended in the other house, were not adduced by the noble Earl. He supposed it was apprehended, that like the case of Ballybay, they would have been blown into the air. Such was the state of law in Ireland, that in 1823 there were 497 persons committed under the Insurrection Act in Tipperary, and of them, even Irish justice acquitted 417. Throughout all Ireland there were 1700 and upwards committed under the same act in that

year, and upwards of 1400 were acquitted. The noble earl had quoted the words of Mr. Fox, to show his dread of the tyranny of the many over the few. The house knew how to apply this to the state of parties in Ireland. As well might the wolves affect a dread of being devoured by the sheep, as the noble lord affect any dread of that sort on the side of the Orangemen against the Catholics. The question of the Catholic claims in that house had assumed the complexion of a suit in Chancery. There had been endless disappointment—the expense had generally swallowed up the estate in the one court, as delay had nearly destroyed the patience of the suitors in the other. The issue of both would be analogous, in the entire destruction of the estate.

Earl Grosvenor wished that this bill had been postponed till some measure of conciliation had been put in progress. He had good reason to believe, that if that course had been taken, the Association itself would not have objected to this bill. He urged the weight of the opinions repeatedly given by Lord Wellesley, though held back by Administration, to show that concession and conciliation should precede this measure of coercion. He exhorted the house to consider well the danger of endeavouring to put what had been called an extinguisher on the claims advanced by the Association. Whether the Association were legal or not, their conduct, and that of the Catholic body, proved against all the arguments to the contrary, that they were capable of using the advantages of representation in a wholesome and constitutional manner. The noble earl opposite was alarmed at the collection of the rent, and showed an instance to prove that it was nominally voluntary, and not really so. He had been given to understand since, that no such process had ever issued as that mentioned by the noble earl. As to the mode of collection, he could speak to instances of subscriptions in Protestant churches, where something very like a red and black book existed; where men had subscribed voluntarily, for fear of being marked men. Still there was no proof of the illegality of the practice in either case. He could not see any reason why the Association should be viewed with alarm. Its proceedings were open. Every facility was given to reporters attending it, so much so that it was upon the evidence of a reporter, that the Attorney-General for Ireland attempted to get up a case against Mr. O'Connell. Was that gentleman, he would ask, convicted, or even brought to trial for the language he used? No such thing—the bill against him was ignored even upon the evidence tendered by the Attorney-General. This was decisive proof that there was nothing faulty in the conduct of the Association. As no fault could be found with its actions, its opponents looked to its words; and they pounced upon "hate to Orangemen," with the utmost exultation. He fully agreed with a noble lord, that the words in question meant little more than, "by your hatred to persecution;" and if so, nothing could be more harmless. He was happy to see that notwithstanding the efforts which had been made to excite the prejudices of the people against Catholic Emancipation, they had been attended with imperfect success: they had dwindled into insignificance, when compared with their violence some years ago. At that time, every nook and corner of our streets bore the mark of

"No Popery," and, unfortunately for the cause of religion, the feeling of the people went along with that infuriated cry. At present the same hand-writing was on the wall, but the people cared little or nothing about it. Day and Martin, Dr. Eady, and Hunt, with his roasted corn and matchless blacking, beat it fairly from the field (a laugh). For his own part, he verily believed, that if their lordships were to grant Emancipation to the Catholics, it would either make no impression on the country, or be received as a great blessing (hear, hear). He could not speak with patience of the conduct of ministers on that question. That portion of them which wielded the lightning and guided the thunder of the state, which directed its energies and commanded its bayonets—was anti-Catholic (hear, hear). It was not enough, however, for the Cabinet to differ from itself, it differed also from its royal master, and placed him in a most distressing situation. As King of Hanover, he was all conciliation; as King of Ireland, he was all coercion. To the Catholics of Hanover, he said "aye," to the Catholics of Ireland, he said "no," upon the very same subject (hear, hear). It was true that his Majesty might dismiss such advisers. A breath could unmake as easily as it had made them. He was sure that the question of Emancipation might be carried with ease by any ministry that would act upon it with sincerity and open-heartedness. That event would call forth the shout of *Io triumpho* and *Io Pæan*, in every direction, and would unite our Catholic brethren to our side, in the strongest bonds of amity and affection. Capital would then flow from every side into that country, which had been so long blest by the bounty of Heaven, and cursed by the misgovernment of man. The general feeling would be

"Nunc est bibendum, nunc pede libero  
Pulsanda tellus" (a laugh).

The noble lord might smile, but the people of Ireland, though they drank deeply now, would fill their bumpers still higher than before, in honour of so glorious a consummation. He concluded by declaring his intention of voting against this bill.

The Earl of *Gosford* opposed the bill. He conjured the house to consider the situation in which Ireland would be placed by it. There was not a petty attorney in that country who would not torture this bill to suit his own views and purposes. The remedy was worse than the disease. He was convinced that the only way to confer a real benefit on Ireland was to grant Emancipation.

The Duke of *Sussex*: In rising to address the house upon a subject of such deep interest, and which had already excited so much discussion, he felt it necessary to treat their lordships' indulgence, and if, in the course of his address, he should make use of any warm expression, he trusted that noble lords would attribute it, not to any wish to offend, nor even to any indifference to the subject, but merely to the warmth which unavoidably attended a discussion of this nature. It was always with great diffidence that he had risen to express his thorough opposition to the measures pursued by his Majesty's Government with respect to the Roman Catholics of Ireland; but, in opposing the measure now before the house, he was actuated by a conviction that he was doing his duty by his country, and he had ever

considered the best performance of that duty to be a support of the liberties of the subject. He opposed the bill before the house, because he thought that no ground whatever had been shown for the necessity, or even prudence, of passing such a measure. Upon former debates upon subjects of this nature, they had asked on that side of the house for information, which had constantly been denied them. The Speech from the Throne had said, that measures were to take place different from all antecedent proceedings; but no mention did that speech make of any documents upon which those measures were to be founded. From the delivery of that speech to the present instant, the only reason that had been given for this measure was, what was termed notoriety; but he begged their lordships to consider what notoriety, in such a case, really meant. Notoriety, in his opinion, was something or nothing. We were told that on the right and left they might hear this report and that report; but such idle rumours and mere hearsay evidence would not be admitted for an instant in any court of justice, however contemptible its functions or irregular its practice. Ought, then, such evidence to be admitted when the liberties of a country were concerned, and in matters of such paramount importance (hear, hear)? The noble lord opposite had fully illustrated what he had now said, for he mentioned that he had been told by some authority, that if Emancipation were granted to the Catholics, it was a matter of considerable doubt whether the Association would accede to the measure, or feel satisfied; but he asked their lordships whether it was not derogating from the dignity and character of the house to receive, much less to be influenced by such hearsay evidence? He maintained, that if the Catholic Association were to be put down by the arm of authority—if it were to be suppressed by harsh and coercive measures, they were bound, by every possible tie, to hear the evidence in support of the accusations which were made against them, and which were urged as the grounds of their suppression. He agreed with a noble lord who had preceded him, that the easiest way of putting down this Association would be by granting the object for which it petitioned. The noble earl (Liverpool) might smile again, if he pleased, at that declaration; but in uttering it, he spoke the conviction of his mind, founded upon the experience of history, which showed that complaint always ceased as soon as grievance was redressed (hear, hear). He had heard with regret the observation of a noble earl, that this Association, though it had done much good, might have done much harm. He would advise the noble earl to look to facts rather than to probabilities. The noble earl had endeavoured to illustrate his argument by saying, that a candle was very useful in its way, but was very dangerous when placed too near a muslin curtain. He allowed it to be so, but he would not on that account extinguish the candle and leave the room in utter darkness. The noble earl, in arguing the propriety of this measure, had touched lightly on the Catholic question. Now, he believed that the propriety of this measure could not be properly discussed without entering at some length into that question, which was closely connected with it. Since the year 1778, great privileges had been granted to the Catholics; and he believed that

these grants, so far from inflicting any harm, had conferred great benefit on the country. He had bestowed much pains upon the consideration of that question, and he was convinced from the various debates which had taken place upon it, that it had been the intention of the legislature to throw open the door of the constitution to all classes of his Majesty's subjects, as soon as it could be done without difficulty and danger. He was convinced that the sooner the Catholics were admitted within the pale of the constitution, the better would it be for the tranquillity and stability of the empire. He made that statement from a recollection of the grateful manner in which former concessions had been received by the Catholics of Ireland. As soon as the first concessions were made, in 1778, Ireland furnished us with eighty thousand seamen, and so enabled us to recover our superiority on the ocean, from which we had been driven to the shelter and confinement of our ports. When he recollected that circumstance—when he looked to the immense force which we now kept up in Ireland—when he considered that measures of conciliation would tranquillize Ireland, and so enable them to dispense with that force altogether, or to employ it in some other portion of the empire—when he reflected that economy was the order of the day, and that the people had a right to expect some further reduction of the taxation which the war had entailed upon them, he could see many reasons why the house should emancipate the Catholics, and not one reason to the contrary. He was prepared to contend, that the laws which had deprived the Catholics of the political privileges which belonged to their Protestant fellow-subjects were introduced for very wise political reasons. The Pope was at that time possessed of considerable power. There was a Catholic sovereign in existence who had been very properly driven from the throne on account of his arbitrary notions. That sovereign, on retiring to Ireland, had obtained support from the Catholics of that country—a circumstance which naturally excited great jealousy in the minds of the people of England. The penal laws against the Catholics were therefore dictated by the paramount necessity of securing the liberty of the country by placing a succession of Protestants on the throne. The danger, however, which had led to the enactment of those laws had now disappeared, and the laws ought to disappear with it. There was now no Popish aspirant to the throne. The political consequence of the Pope was gone; and, in spite of what was now doing on the continent, would never again attain sufficient strength to become formidable. He recollected the noble earl *opposite* saying, during the war, "We must not grant Emancipation now, because the Pope is in the clutches of Napoleon, and may be compelled to use his influence against our interests." He had laughed at the argument at that time as unworthy serious consideration; and he must now laugh at the argument which had succeeded it, because, though dissimilar in its nature, it was equally ridiculous in its consequence. The noble earl now said, "We must be afraid of the Pope now, because the sovereigns who form the Holy Alliance have restored him to his dominions, and given him back a portion of his former power." He would allow that those sovereigns had recently paid much court to his Holiness; but he now

stated what he had stated before, that they did it not so much for the sake of the Pope, as for the sake of securing their own power by his influence. The first moment that they chose, they could crush into nothing the idol they had just created. His opinion was, that if the restrictions which now pressed heavily on the Catholics were taken off, we should be able to bid defiance to a world in arms, and to take care of our own liberties—a circumstance which we ought not to treat with indifference, since he believed, upon his honour, that if we did not take care of them for ourselves, nobody would take care of them for us. He should watch over this bill in all its future stages, and give it his most strenuous opposition, if on no other account, at least to show the good will he bore to Catholic Emancipation (hear, hear).

Lord *Kingston* wished to make one observation on a case which had been alluded to by a noble earl. He had been on the bench at *Fermoy*, when the man came to swear that his sheep had been taken under a distress for the non-payment of the Catholic rent. Inquiry was instantly made into the complaint, and it was found that the sheep had been distrained, not for any Catholic rent, but were found trespassing in a turnip-field of one of the man's neighbours (hear, hear).

The Marquis of *Lansdown* complained, that after ministers had refused to give them any information on the extent of the evil which they sought to put down by this bill, and after their lordships had determined to reject the evidence tendered at their bar to prove the non-existence of that evil, they were called upon to give it their sanction upon a solitary fact, which had no sooner been stated than it had met with a positive contradiction (hear, hear). Before, however, he proceeded to discuss the details of this bill he should beg leave shortly to allude to the topics with which the noble earl had prefaced his motion. The noble earl had called the attention of their lordships to the great improvement which ministers had effected in the condition of Ireland. That improvement came rather late. Tax had been imposed after tax, upon that devoted country, until it was found that the tripled and quadrupled tax produced less than the original one (hear, hear). After they had achieved that discovery, ministers determined to repeal some portion of the taxes; and to see whether the revenue could not be increased by doing a simple act of justice, and they now claimed the merit of virtue for an act of necessity. With respect to the improvement in the administration of justice, he was sorry to state that he was more confident than ever he had been of its imperfect and partial condition. The proofs were now, or would very shortly be, before the public; and they were such as, while they called aloud for a remedy of the evil, admitted of no contradiction. With this conviction, then, he would never endure to hear it said that the adoption of any better system was an indulgence to the people of Ireland, or that it was any thing but an act of justice which had already been too long delayed. He now came to the particular measure before the house. He did not deny that the circumstances of Ireland were such as required great vigilance on the part of the government. No reflecting man could contemplate those circumstances without anxiety. When he saw the extraordinary, but not by

him unlooked-for appearance which the country now exhibited, it was impossible not to apprehend that a rivalry, or, perhaps, he might rather be justified in saying, a conflict would arise between the power of the government and that power which had grown out of the actual circumstances of Ireland, which might lead to consequences full of danger. For this state of things he confessed that some prompt and vigorous remedy was necessary. But while he admitted this, he was bound to look, with no less caution, that the remedy proposed was sufficient. But the noble Earl (Liverpool) said, if even it should be shown that this measure was insufficient, still he would propose it; because, though it should prove ineffectual in putting down the Association, it would show that the effects of government were equally ineffectual in attempting to put down their enemies. This was in effect the argument of the noble earl. But did he think that it would be likely, among its other effects, to increase the respect of the people for the measures of parliament, because it taught them that they need not obey unless they should be disposed—that the power of the parliament was insufficient to compass its ends—that the law might be evaded, and treated with indifference, if not with contempt? Surely this proof that the government was

“Willing to wound, but yet afraid to strike,”

would have no other effect than that of alienating the minds of the people. But what was it that the present measure proposed to do, as against the Catholics? He did not find that there was any intention (and God forbid there should be!) to put down the meetings of the Catholics. Among other clauses in the bill he perceived an elaborate provision that any society which should continue to meet after the period mentioned, should incur—what penalty did their lordships think? Why, that such refractory society should not have the power of adjournment. A provision like this was worse than ineffectual, because it threw an air of ridicule over its own avowed weakness. He professed a great and sincere respect for the order and form of the proceedings of that house; but he apprehended, that if assemblies should continue to be held after the passing of this bill, the provision he had alluded to would hardly have any effect in checking them. He would next advert to the rent, with respect to which so much had been said. He was free to confess that he thought the name ill chosen and objectionable. But he asked their lordships whether it became them to pass such a bill as was now before them, on account of an improper phrase. If any authority had been exercised, if any attempt in the nature of a distress had been made to enforce the payment of that rent, then, indeed, something like a case would have been made out by those who supported the measure. But he had also to complain that on this subject there was something like special pleading in the terms of the bill. The words used were “levy and receive.” These two words, the meaning of which were wholly different, were coupled together, if not with an insidious intent, at least so as to produce an unfair effect. To levy money in any way but by the authority of parliament was unquestionably illegal; but this the Association had not done, and had not attempted to do. To

prevent money from being received, while one party was willing to pay and the other to receive, was beyond the authority of parliament. He would ask, whether by any stretch of ingenuity, by any species of inquisition more searching and more rigorous than had been invented in the most Catholic country in the world, an accurate account could be extorted of every shilling that had been received, from whom it had been received, and to what purposes it had been applied from the Catholic laity? Yet without it, the clause could not be carried into effect. He would not detain their lordships by going into a consideration of the various means by which the provisions of the bill before them could be evaded. It was enough that they could be evaded. The bill, to be effectual, must take away from the Catholics the disposition or the power to do as they had hitherto done. The evil was deeply and firmly fixed; its root was in the state of society in Ireland. Every body knew that whole nations and communities might be held under an arbitrary domination—that the influence of power might wither and extinguish all the feelings and desires which tended to exalt and improve human nature; that men might be held in a state of servitude, and even reconciled to the loss of all their civil rights and privileges. This might be done—this had been done; but what arbitrary power could not do was, to keep a nation—and the Catholics of Ireland might, with reference to their numbers, be called a nation—in a state of deprivation of their natural rights, while they were intermixed with another people who were in the full enjoyment of civil liberty. All the ingenuity of the most learned lawyers—all the penal statutes which might be heaped upon the table of the house, could not shut the door against the influence of such freedom, could not intercept the feelings which must arise from the interchange of sentiments, the communication of wealth between the nation in thralldom and the nation which was free. If they still resolved to withhold from the Catholics the light and warmth of the sun of the constitution, they must not be surprised that they should seek illumination from those wandering lights, which fitfully and partially irradiated the political atmosphere, and glittered only to betray (hear, hear, hear). Let their lordships think to what manner of nation it was that they were asked to apply this rigorous restriction. It was a nation which he hardly felt himself able to describe, and to which he should therefore apply the words of a writer who was not less famed for the force and beauty of his prose than for the inimitable excellence of his poetry. Milton, in speaking of the English nation, and addressing its rulers, said, “*Lords and Commons of England! Consider what nation it is whereof ye are the governors: a nation not slow and dull, but of a quick, ingenious, and piercing spirit; acute to invent, subtle and sinewy to discourse, not beneath the reach of any point the highest that human capacity can soar to.*” Such a nation was Ireland. He besought the house to remember, that over this nation was exerted that tremendous engine of modern times—the press; a power which, like that of electricity, roused the latent fire which existed in every part of the national economy, and woke every sympathy of human nature to the keen enjoyment of the advantages which existed for the universal good of society.



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MONDAY, MARCH 7.—The Bishop of Exeter presented a petition from the clergy of the U

diocese of Exeter, in favour of the bill, and against the Roman Catholic claims. The petition, which, on the motion of the right rev. prelate, was read and laid on the table, strongly censured the violent language used in the Association, protested against the Catholic doctrines, and deprecated the repeal of laws which formed the security of the church and state.

Lord King observed, that their lordships had now before them one more petition from the clergy against granting the enjoyment of civil rights to their fellow-countrymen, the Roman Catholics. How far those rev. gentlemen ought thus to meddle with politics he should not now discuss; but they always appeared eager to take part in them. He was informed that there was a city which had a rt. rev. mayor, and in which there were very rev. aldermen and well-benefited burgesses. He did not know whether they held their benefices in the diocese of the rt. rev. prelate, but he did know that the town was situated in his diocese. As these rev. gentlemen bestirred themselves so much to find fault where they had no business, he thought it would be but right to bring them back from where they had gone to where they ought to be.

The Bishop of Exeter did not understand on what ground it was pretended that the clergy should not be allowed the right of petitioning as well as any other class of his Majesty's subjects. Why should they not be allowed to approach that house when they addressed it in modest and humble petitions? With respect to the clergymen to whom the noble lord had alluded as holding magisterial offices, that was a circumstance which nobody more regretted than he did (hear, hear). Such cases did exist in his diocese; but it was not in his power to prevent them.

The Earl of Darnley referred their lordships to the petition which had been read at the desire of the rt. rev. prelate, in order to judge how far it was remarkable for modesty and humility. These reverend persons dwelt very much on the intemperate language and conduct of the Catholic Association; but if they had been placed in the same situation as the Catholics—if they had been so long debarred from their just rights, he doubted whether, partaking, as they surely did, of the common infirmity of human nature, they would not have used still more violent language. They protested against the Catholic doctrines, and said that they could not, consistently with their duty, remain silent, when the fences which surrounded the national church were proposed to be removed. Their language was throughout sufficiently strong, though they were not, like the Catholics, suffering from the operation of partial laws. Nobody was more attached to the true interests of the Church of England than he was, but this was a question which did not affect those interests. It was remarkable that no petitions had been presented in favour of the bill—at least, none had been presented in that house—except such as came from the clergy; but he would seriously advise those reverend persons to consider well whether they could really believe that at the present moment there was greater danger from granting than withholding the Catholic claims. He wished they would take the trouble to read what Mr. Burke, the highest authority on this subject, had said. They would then see that it was now too late to oppose the religious liberty of the Catholics.

On the motion for the third reading of the Unlawful Societies bill,

Lord Ellenborough said, that he by no means wished to be understood as countenancing the proceedings of the Association; but he did not wish that it should be put down by a measure imposing new restrictions on the liberty of the subject. Not that he thought the Association had hitherto done any harm, but because their future conduct might prejudice themselves and their cause; and therefore he hoped it would dissolve itself. He felt no regret that it had existed: on the contrary, he considered it a matter of congratulation. It had made both Catholics and Protestants think seriously of the evils arising from the existing laws; and he thought it had produced a stronger disposition in the minds of both parties to make mutual sacrifices of their prejudice, in order to set their differences at rest, and obtain a great national advantage (hear, hear). The Association had been harshly dealt with; they had been condemned unheard. It was said that they perverted the course of justice: but where was the proof? He could imagine that certain magistrates might feel uneasy under the eye of a Catholic barrister; or that a certain class of libellers might entertain strong fears of prosecution; but these were not reasons for putting down the Association. Some benefit must arise from the feeling which they imparted to the poorest man in the country, that whatever injuries he might sustain, there were persons ready to protect him. That feeling was certainly calculated to effect a benefit, rather than harm. He did not see why it was to be inferred, that because they had used their power in doing good, they therefore meant to exercise it in doing evil. He thought that the expectation of a great benefit now held out to them by the other house of Parliament, might have the effect of putting down the Association; but if that measure had not passed, he could not have expected it. The case of the Corresponding Societies which had been cited, had no analogy to the present. They were a few detached bodies of men; but here were six millions united in one cause. It had been said that the Catholics, when they obtained what they asked for, would ask for more. In reply he had to say, that he should never dread the Catholics, while they asked for what it would be unjust to give them. What he dreaded was, that they should continue to ask, and their lordships to refuse, those rights which it was unjust to keep from them. The better condition of the Catholics became in other respects, the deeper would be their dissatisfaction at the continuance of those laws by which they were at present oppressed. It was in vain, therefore, to talk of the prosperity of Ireland; it was in vain to pour benefits into her cup, while a drop of gall remained at the bottom which embittered the whole. He trusted that the Association would be induced, by the hopes which were now held out to the Catholics, to pronounce its own dissolution. He trusted that those hopes would not be again disappointed by that house (hear, hear); and that the noble earl would pause before he told six millions of people, who were now closely united for political purposes, that their eternal portion was despair (hear, hear).

Lord Callthorpe contended that the house had disqualified itself by its past conduct towards the Catholics from inflicting a measure of this

Now the Irish, previous to this arrangement, description upon them. There was much less danger to be apprehended from the conduct of the Association than from Parliament continuing to act towards the Catholics in that spirit which had given rise to the Association. He preferred conciliatory measures to those which were vexatious and oppressive. None of the noble lords opposite could hold the Catholic religion, as a system of faith, in stronger dislike than he did; but all the arguments by which their claims were opposed were grounded on the assumption that the Catholic religion was now, and would be in future, what it had been in those times when it was filled with slavish doctrines and prejudices, which were fostered by the corruption of the age. He was convinced that the best antidote to the injurious effects of their tenets, would be to grant them an equal participation in the privileges of the constitution. This house had been instrumental more than once in intercepting measures of grace towards the Catholics in their progress towards the throne; but he trusted that noble lords would not support this bill, because they had formerly supported measures which had produced the very consequences of which they now complained. He should vote against the measure.

The *Lord Chancellor* did not assent to this bill on such grounds as the noble lord, who had just sat down, had stated. If this house, impressed with a sense of the duty to the country, had formerly adopted measures which were now considered to be wrong, there never was a more mistaken principle than that their lordships should therefore pass this bill. No man could put his hand to his heart and say he would pass this bill, not because he disapproved of the conduct of the Association, but because he had done that which was wrong before. He would not consent to this bill, if he thought it would commit him in the course he was hereafter to adopt, when considering what he owed to the Protestant ascendancy in this country. His vote upon this question was dictated solely by what he considered his imperative duty to his country; and in whatever he should do in future he would be actuated by the same principle, and not by his past conduct. Upon that future measure he would act as he had always acted; which was to consult his conscience; and, under the responsibility of a being who must answer for his actions at the great account hereafter, to do what he considered best to be done. His conduct, on that question, had been founded on his conscientious opinions; and after having made it the subject of his anxious thoughts for thirty years, he saw no reason to believe that his opinions were ill-founded. But still he was open to conviction, if noble lords could persuade him by their arguments that he was wrong. Without pledging himself, therefore, as to what he might do, when called on to act, upon a future occasion, and governed by his opinion of the unconstitutional conduct of the Association, and of the dangerous principles upon which it had been formed and had acted, he would consent to the third reading of the bill.

*Lord Dudley* and *Ward* felt himself bound, with considerable regret, to vote for the measure. It was for their lordships to consider what might be their own conduct if placed in a similar situation, not for any crime, nor as the authors of any dangerous innovation; but because they had adhered to the religion of their ancestors, and had not received that great light, which

after the darkness of a thousand years, had broken forth on the Christian world. If any of their lordships thought that, under such circumstances, he ought not to feel any irritation or discontent, but that he should bow with submission and kiss the rod, that noble lord might vote for this measure without regret. But in his view, who thought that the Catholic question ought to pass as soon as possible, and that the Catholics were placed in a situation most trying to their loyalty, he was not disposed to scan their faults too nicely. But indulgence must stop when danger began to appear; and it must be admitted that the Association had assumed a dangerous aspect. It set up a government against the Government, a parliament against the Parliament, and a revenue against the Revenue. He did not mean to say that there was rebellion in its acts, but there was rebellion in its tendency. It was the machinery of a rebellion for the time when an occasion might arrive. Such steps as these were always the first which were taken by sects against hostile sects or unpopular governments; and that government that would be intimidated by them would deserve to be overturned. Those who were at the head of this Association appeared to be able and intrepid men, and they might, perhaps, hate Parliament for doing their duty; but it was better they should do that, than be taught to despise them for neglecting it. It was because he was a sincere friend of Catholic Emancipation that he wished the Association to be effectually put down. So long as it existed, it would be cited as a specious plea against carrying the great measure of Emancipation.

The *Earl of Rodow* said, that he, as well as many of his friends, could bear witness to the violent proceedings of the Association during the last twelve months. They had erected an *imperium in imperio*, and lorded it over the whole Catholic population. They had been the means of fomenting jealousies, misunderstandings, and angry feelings between Catholic and Protestant; and if suffered to go on, would produce the most baneful effects. The situation of the peasantry of Ireland had, he conceived, been very much misrepresented. No set of people enjoyed more amply the benefits of the British constitution than the peasantry of Ireland; nor was there any body of people more ready or anxious to acknowledge the boons they had received from Parliament, during the last two or three years, if they were permitted to do so by those persons who assumed an undue authority over them. He was anxious that this Association should be abolished, as he was friendly to Catholic Emancipation. He was sure, if the bill passed those respectable noblemen, whom no person could mention without praise—*Lord Fingall*, *Lord Gormanstown*, *Lord Killeen*, and others—would do all that loyal subjects could do to enforce its enactments. Let justice be done to the Irish people, and tranquillity would be restored.

*"Himotus anhorum atque hæc certamina tanta,  
Pulveris exigui jactu, compressa quiescent."*

The *Earl of Darney* said, that the noble earl had spoken in flattering terms of the situation of the peasantry of Ireland: Did he really mean to state that the peasantry were in so enviable a state, that they had no just cause of complaint? Situated as they were now, it was impossible for them to be

satisfied: from Lord Flaxall, to the lowest peasant in Ireland, all the Catholics felt severely the situation in which they were placed. The legislature had in its hands a better means of putting down this institution than that which had been adopted. He would not go into a discussion on the merits of the Association; but he would call their lordships' attention to an event which had recently occurred elsewhere, and which, if followed up, would give peace and tranquillity to Ireland. Let the house well consider the effect which had already been produced by that proceeding. He implored their lordships, he implored the learned prelates opposite, who had been the chief means of defeating, on former occasions, the measure to which he was now alluding, to pause before they dashed the cup of hope from the lips of the Catholics, and destroyed their just and well-founded expectation. Their numbers were great, their cause was irresistible, for it was founded upon reason and justice. The question must speedily be settled—for he was sure no noble lord could lay his hand on his heart, and say, that things could remain as they were.

Earl Grosvenor said, that they were now about to frame a law which would be fatal to the peace of this country, and of Ireland, if it were not accompanied by the measure to which his noble friend had alluded. They were proceeding to legislate in this manner, when the Catholic population had increased in knowledge and riches—when the numbers of that body were become enormous; and they proceeded to legislate, without stating in any part of the bill the nature of the danger that was apprehended. He was very glad to hear that some approximation of feeling between the two conflicting parties in Ireland had been manifested; but he trusted that the Catholics would never be satisfied with any trifling concession—that they would never be content with any thing less than a full participation in the rights and privileges of the constitution.

The bill was then read a third time and passed, and received the Royal assent on the ensuing Wednesday

### *Catholic Claims.*

COMMONS, TUESDAY, FEB. 15.—*Mr. Dickenson* presented a petition from the Archdeaconry and clergy of the Archdeaconry of Bath, against the Catholic claims. It complained of the spirit of superstition, violence, and tyranny of the church of Rome, and of the threats of the Catholic population of Ireland, who had presumed to offer insult and violence to their Protestant fellow-countrymen. This feeling was calculated to place in peril the security of the Church and State of these realms, and of it, and the conduct of the threatening party in Ireland, these petitioners justly complained. He begged to state that in consequence of late proceedings, he had quite made up his mind against any further concession to the Catholics (hear, hear).

Sir T. Lethbridge expressed his satisfaction at the sentiments expressed by his hon. colleague, which were in accordance with his own, and, he believed, with those of the great bulk of the people; not that portion which had been described as low, and vile, and senseless, but of men whose sentiments were entitled to the highest respect in the estimation of Parliament.

Sir M. W. Ridley was sorry to see such a petition emanate from so respectable a body,

and couched in such language as the petitioners had thought fit to use in the expression of their opinions (hear, hear). He the more lamented this intemperance at a moment when all sides of that house, and, he believed, of the country, speaking generally, had concentrated their efforts to bring all parties to the consideration of this subject with a mind and temper very different from that betrayed on the present occasion. The language of the petition was intemperate and unjust (hear, hear); and the charges it contained were unfounded (hear).

Mr. C. H. Hutchins said, he should abandon his duty to his country if he suffered so gross a libel as this petition to be presented to the house, without protesting against its crying injustice (hear, hear). It was an indecent and unprovoked attack upon the Catholic population of Ireland.

Laid on the table.

LORDS, THURSDAY, FEB. 24.—The Earl of *Donoughmore* presented a petition, subscribed by no fewer than 100,000 names, and if this extraordinary number of signatures would entitle a petition at all times to consideration from any description of his Majesty's subjects, how much more weight ought it to have, when the 100,000 persons by whom it was signed declared the sentiments of seven millions of their countrymen? Those signatures comprehended the most respectable persons in the Catholic body—men eminent for wealth, rank, and talent. The first name which presented itself in the list was that of the Premier Viscount of Ireland—Lord Gormanstown. He was the lineal descendant of the Lord Deputy of the same name—a statesman who once governed Ireland, although his descendant was now only permitted to come forward and solicit from their lordships the right of mere eligibility to office—a right which in common justice ought to belong equally to all his Majesty's subjects of every religious denomination. Having spoken of a former Lord Lieutenant, he would take the liberty to say a few words respecting the present. On the last occasion on which he submitted a motion to the house for redressing the grievances of which the Roman Catholics had to complain, the present representative of his Majesty had on this great question entrusted him with his proxy. The circumstances of Catholic Emancipation being thus supported by a present Lord Lieutenant, and petitioned for by the descendant of a former, ought, he thought, to have some weight with their lordships. Never had Ireland a Lord Lieutenant more anxious for her welfare than the present. He had done all the good in his power in the circumstances under which he had been placed. The noble earl concluded by a detailed eulogy on the administration of the noble marquis, after which the petition was read.

The Marquis of *Landown* submitted another petition in favour of the same object as that which had just been read, from Protestant landowners, merchants, and bankers, of Dublin and its neighbourhood. Though not so numerously signed as the petition which had been presented by his noble friend, it was in another respect entitled to the most serious consideration of the house. It was one which expressed the opinion of the most respectable and wealthy portion of the Protestant inhabitants of that part of the country from which the petition came, on the claims of their Catholic fellow-subjects. The first name that occurred was that



of the Duke of Leinster; the next the Earl of Meath; the two greatest landed proprietors in that part of Ireland in which the petition was prepared. These names were followed by the signatures of the Marquises of Downshire and Westmeath. He next found the signatures of the Earls of Limerick and Charlemont—the latter a name connected and associated with the proudest period of Irish history. To these were added the signatures of Lords Glengal, Riversdale, Forbes, and many other noble names. Among the bankers and merchants, was the name of Latouche, and the names of others, the descendants of men who had fled from religious persecution in another country, and had found an asylum in this. Their ancestors, who were the victims of an act of great injustice committed by an ambitious tyrant, abandoned France in consequence of the revocation of the edict of Nantes. They suffered persecution as Protestants under a Catholic Government; for what religion existed which had not at some period or other been degraded and polluted by the fanatical zeal of those who thought they served it by acts of cruelty and injustice? The exercise of benevolent feelings, through three successive generations, had taught these descendants of persecuted Protestants to regard the Roman Catholics among whom they resided, not as enemies whom they ought to dread, but as brethren, as fellow-subjects of the same sovereign, discharging the same duties, and with whom they wished to live in the enjoyment of equal rights. They would besides find attached to this petition, the names of other Protestant bankers and of various capitalists connected with the interests of Ireland, and engaged in speculations just beginning to be unfolded for the benefit of that country. But did their lordships believe, that the noble and extensive landholders who had set their names to the present petition had subscribed it without well considering what would be the consequences of granting the prayer of the petition? Did not they believe that the great Protestant bankers and capitalists who here prayed for Catholic Emancipation, had seriously reflected on the effect which that measure was to have on their religion and their fortunes? He had always felt that this great question was not a Catholic, or a Protestant, but an Irish question; that it was a question whether or not several millions of Catholics should be admitted to an equal share of the benefits of the constitution. He felt that this measure, to use the words of a noble lord on the opposite side of the house, would inevitably pass. But he hoped it would pass soon, and he trusted, therefore, that when the measure was carried, there would be found on record the names of multitudes of Protestant petitioners in its favour, who by thus holding out the hand of peace, and promoting this healing measure, so necessary to the prosperity of their country, would have entitled themselves to lasting gratitude, when religious differences—no, not religious differences, for they would ever continue—but when the animosities of religion would have ceased to exist.

The petition was then laid on the table.

Lord Gort presented a petition of the Lord Mayor, Sheriffs, and Commons of the city of Dublin, praying that no farther concessions be made to the Catholics; and another to the same effect, from the Guild of Merchants in Dublin, which, he said, was composed of twelve hundred respectable merchants, noblemen, and country gentlemen.—Laid on the table.

COMMONS, TUESDAY, MARCH 1.—*Mr. Brownlow* presented a petition which had come into his hands at the end of last session. He then knew nothing about the facts which it contained, and he therefore postponed the presentation of it until he had made some inquiry on the subject. He had since obtained the testimony of a gentleman upon whose word he could place unqualified reliance, as to the truth of every fact in the petition. The petitioner, John Kirby, stated, that he had for 14 years kept a school in a parish in Kerry. On account, however, of the badness of the times, the parents of the children whom he taught, were unable to pay for their instruction, and the school consequently was obliged to be given up. The petitioner then thought of changing his residence in order to obtain a livelihood; and as a preliminary to that proceeding he applied to the parish priest to give him a character. The priest certified that the petitioner "had for many years kept a school, and conducted himself in an exemplary manner." It happened that about last February, an agent of the Hibernian School Society came to the petitioner's parish, for the purpose of establishing a school there. The school was established, and the petitioner was, on account of his excellent character, appointed to be the schoolmaster. The school had not been opened many months before it was attended by upwards of 100 children. It was then that the coadjutor of the parish priest, the rev. John Quin, called on the petitioner, and told him he must desist from teaching the children, because the education they received tended to make them Protestants. They were more taught to read the Bible, but no catechism, and the attendance of the Catholic priests was always solicited. The petitioner told the priest that he was himself a Catholic, and had no intention of making converts from the Catholic faith, and asserted that he ought to be allowed to get his livelihood as he pleased, so long as he did so honestly. The priest thereupon became enraged, and after dealing out some invective, went away vowing vengeance. On the next Sunday the petitioner was publicly pointed out in the house of the Lord by the priest, who exhorted his fellow parishioners to hold no intercourse with him, and excommunication was denounced against those who should continue to send their children to the school. About 50 children, however, still continued to attend. But soon after came the time when the priests were in the habit of receiving confessions, and then they took the opportunity of warning the children not to attend the school, and curses were pronounced from the altar on all who might thenceforth continue to do so. Under this continued opposition of the priests, the school sank to the ground, and the petitioner was compelled, by the threats of the priests, and the disrespect with which he was treated in consequence of those threats, to leave his parish, and go to other parts of the country. Wherever he went, however, he found that the influence of the priests had preceded him; and that those who were formerly disposed to befriend him, now denied him all friendly assistance. To crown all, the petitioner was cruelly assaulted, knocked down, and nearly deprived of life by five men, for daring to speak against the conduct of the parish priest, Mr. Egan, from whom he had endured all this suffering. This was only one instance; but he could quote many instances of the violence which

Catholic priests had exercised towards schoolmasters in Ireland.

Mr. F. Lewis could, if he pleased, state to the house a hundred instances of similar conduct on the part of the Catholic priests. It was one of the misfortunes of Ireland, that at the present moment a struggle was going on between the Catholic priesthood, who opposed, and a particular Society who supported a certain system of education. It was the intention of the committee which was last session appointed to inquire into the state of Ireland, to propose a remedy for the evil to which he had alluded. In the meantime he begged the house not to enter into a discussion on the subject which the petition had brought under their notice.—After some remarks on the impropriety of presenting this petition on the present occasion, as if to prejudice the house against the reception of the Catholic petition, then coming on—it was laid on the table.

Sir Francis Burdett presented a petition, signed by a greater number of the Catholics of Ireland, than had ever, he believed, before affixed their names to any document of a similar description. In moving that the petition be printed, he declared that if he always felt considerable apprehension when called upon to address the house on any important subject, he had never experienced that emotion to the degree in which it then affected him, when a task was imposed upon him which he was unable adequately to perform; a task which he would have declined, but for the fear of seeming to avoid his duty, or to fail in that zeal for the Catholic cause, in which no gentleman in the country could ever exceed him. Still, when he called to mind the phalanx of talent, which, in times past, had been developed on the present question—when he recollected the eminent names which, for a century, had been marshalled in support of it; and considered that the brightest faculties of the present day would, within a very few hours, be drawn forth in the same cause—it was impossible for him not to feel some consolation in the reflection that every defect of his would be supplied by the ability of those who supported him; and that his cause—the cause of the Catholics of Ireland, of itself strong enough to sustain the weakest advocate—would be brought, and that night, to a favourable issue. It was a further consolation, to see on every side of the house, enlightened men equally anxious with himself in the success of this cause, and to know that the brilliant talents of hon. gentls. opposite, which had so often been exerted against him, would that night be employed in furtherance of the same great object. The petition which he had the honour of presenting, large as it was in appearance, and numerously signed, exhibited but an atom of that immense body of interests which it represented; and of which the full figure, if brought forward, would seem so tall and gigantic, that even the roof of the English House of Parliament might scarcely be lofty enough to contain it. It would be injustice to the extent of that petition to view it as involving only the cause of the Catholics—only the cause of the whole people of Ireland. The question to which it applied was one which affected no partial interests, but the safety and happiness of the British community at large. When he thought of this, he found the subject of such magnitude, that he almost abrank from the attempt to advocate it, and should still be

inclined to do so, but for the resources and assistance to which he already had adverted. The grounds on which the petitioners came forward were so strong, so irresistible, that he could not imagine any principle on which they could be resisted. Upon every principle of honour, justice, policy, and good faith, the petitioners had a claim to which no answer could be given. His great desire at the present moment, was to avoid recurrence to any of those topics which had lately been before the house. He wished to touch upon no point which could excite angry feeling in the mind of any man. He looked to the exercise of the coolest judgment for the advancement of that object which he was endeavouring to support; he implored those around him, of whatever party, to merge for a moment every other feeling in anxiety for the public interest, and to consider only by what course the strength and resources of the empire were most likely to be served and to be consolidated. With that object, he should cautiously avoid every thing in the shape of a retrospective view. He would not, with an unhallowed hand, tear open the wounds under which the people of Ireland had been suffering; but would endeavour, by conciliating those people and the persons who were opposed to them, to show that they were interested in putting an end to the existing state of things. It was a state of things under which some moments of calm had, perhaps, lately been obtained, owing to the prevalence of something like a liberal system in the latter administration of the country; but in which no object which was really valuable, no prosperity to endure, could ever be brought about. Those advantages could never be expected but from the entire change in the policy of England towards Ireland, and from the concession of those demands, which her honour and her interests equally called upon her to admit. For of the Catholic claims he would venture to assert, that at the period of the Revolution, when there really was danger to be apprehended, when King James had been expelled because he wished to establish arbitrary power, and King William was but newly arrived, the hostility entertained against the Catholic religion was not a religious hostility, not the unworthy jealousy of the present day. In all times there had been a distinction between the spiritual and the temporal quarrel—between the Catholic of religion and the Catholic of the state. The former had always been safe; it was the last who had been crushed and persecuted—suspected of correspondence with the see of Rome, the exiled family, and the enemies of the new Government. With a new Government at home, a Popish Pretender supported by foreign Powers abroad, it was not wonderful that the people of England had looked with jealousy on a faith which they thought naturally connected with principles of tyranny and slavery. But after William III. had made good his footing in this country, and after James had been expelled from it, and sought protection from his subjects in Ireland—after he had disgusted even the last who adhered to him, the King of England, to win and pacify Ireland, sent over an offer of any terms,—for his proposal had actually been unlimited, and the Catholics of Ireland entered into a treaty, which provided only for their liberty of conscience—that was, the free exercise of their religion; with all those advantages to be possessed by them which were enjoyed by others, the King of England's subjects in general.

had not stood in the condition of insurgents: at that time England and Ireland were not united. James was King of Ireland when he went over to that country; Ireland, in defending him, only fought the battle of her lawful sovereign. In fact, the English were rather the rebels; though they were justified in what they did, because the interest of their country was at stake; they concluded this treaty even at the moment when a French fleet was entering the mouth of the Shannon; and by delivering up their arms, they had put it out of their own power again to be dangerous to England. One of the conditions of the treaty was that the Irish Catholics should not be compelled to take the oath of supremacy; and, notwithstanding that there were persons who thought the terms granted to them too good, the treaty of Limerick had been fully ratified and confirmed; Ireland had been restored to peace and tranquillity; and William, relieved from apprehensions at home, had been enabled to bend all his force against his opponent Louis XIV. The subsequent infractions of the treaty of Limerick had never been resorted to as securities. In the hour of danger these new guarantees were not thought of: it was in the hour of triumph that an angry faction had lost sight of justice and sound policy. Infractions of the treaty had followed, one after the other; the whole ending by imposing upon Ireland a tyranny the most sanguinary, and a yoke the most oppressive, to which any nation had ever been subjected. Now, unjust as that course of policy had been, it was not quite so unwise as wicked. The effect of it had been immediately to bend the people of Ireland to the earth; if followed up, it would probably have rooted out the Irish as a people, and though wicked—tyrannous—murderous—there would have been something, perhaps, like meaning in it. But the establishments of later days had deemed such a course too inhuman to be persevered in. By degrees those severities had been relaxed; and he advised the Catholics of Ireland never to forget, that year after year, they had been receiving benefits from this country—benefits to which, no doubt, they were entitled, but which they nevertheless would do better to keep in mind than the injuries they had suffered. Let the Irish Catholics carry their views but a little farther forward, and they would see how certainly, how necessarily, what yet remained to be done for them, must, sooner or later, be accomplished. He desired to remind the Catholics of Ireland of the abated rancour of those who had been their most determined opponents. He desired to impress upon them the absolute certainty of their final success, provided they would only so far keep a restraint upon themselves as to make the best use of all the advantages held out to them. They advocated claims which were borne out by reason, by humanity, and by the soundest principles of rational policy. If they would but exert themselves to forget old injuries—injuries which bade fair now to cease for ever—if they would only use common forbearance and discretion, it was impossible but that these claims must be successful. They might rely on it, unless the peace of this country were disturbed, the feelings of the enlightened part of it would make rapid progress in their favour. He, therefore, by no means considered himself at the present moment as the advocate peculiarly of the people of Ireland; still less as the especial supporter of the Roman Catholic religion. He

was no advocate of the Roman Catholic faith; neither was he any opponent of it. In his view all religions were equally right, which the persons professing them followed with sincerity of heart, and which were founded upon principles of virtue and morality. That the Catholic faith was so founded, and so followed, abundant proof, in the way of example, could be given. At the same time, for himself, he had no hesitation in saying, that, having been bred up in the religion of the Church of England, that alone, in his mind, would be a good reason to give for his preferring it, and as ample a reason as any man could be called on to give for his religion (hear, hear). Farther, he certainly, upon reflection, did think, that if he had to choose his religion again, the Church of England was, of all others, the faith he would rather adopt. When he said this, he by no means meant to assert that objections might not be taken to parts of that system: many points in it, no doubt, might be altered and modified with great advantage; but his opinion applied to the system as a whole; and with respect to the clergy of the Church of England, take away only the ecclesiastical corporations, which like all other corporations, showed generally a narrow-minded, intolerant disposition, and for the clergy of the Church of England he had no hesitation in declaring, as far as his judgment went—a more enlightened liberal body of men did not do honour to this or any other country. If, however, he was a disciple of the Church of England, his first care should be, not to forget one of her purest precepts—to do unto others as he would wish others to do unto him. The constitution of England held, that all men capable of bearing equal burdens, were in a free state of society, entitled to the possession of equal rights. Upon those two grand axioms he fortified himself; and upon their authority he declared the present to be so little a Catholic question, that, in fact, the Catholics now stood upon Protestant arguments, and maintained their claims upon the principles which assured the security of England. The sort of change which had taken place in the views and situations of parties were singular enough. Those who had formerly rejected Catholicism for the alleged illiberality of its doctrines, were now acting upon the very principles which they had opposed, and refusing to proceed in conformity with their own; while the Catholics were asking for nothing more than the Protestants themselves had first desired—the right, and the enjoyment of complete religious freedom (hear, hear). They had heard much of the dangers to be apprehended from making these concessions; but he could never find out what they meant—in some men's minds, the very mention of the Pope raked up images of horror which had no connexion with the world as it now exists. Their terrors had been imbibed from books which, in early life, prejudiced their minds so deeply as to impede the progress of opinion, and they foolishly thought, that because their own minds stood still at a particular point, the opinions of the Catholics of the present day were the same as those of their ancestors; but those absurd notions no more resembled the state of our present existence, than that of the next (a laugh and much cheering). The grossest ignorance was a blessing, compared with the misfortune of having one's mind so imbued by prejudices derived from ancient histories (themselves exaggerated), as to render it incapable of receiving

the truth (hear, hear). With respect to the Pope, the conduct of that portion of the Cabinet, who were hostile to Catholic concession, was inconsistent in no small degree; for they were the persons who had expended the blood and treasure of England in reinstating that Potentate, when his throne was subverted. He was found in subjection, and was replaced in his authority by those men who now professed to be alarmed at his shadow. If, as in former days, there were a league between some foreign powers and the Pope, to extend his authority, and if the danger had been occasioned by the re-establishment of the Pope, the Ministry deserved to be impeached for having created the danger—a danger so imminent that it was better to meet the hostility of six millions of people in Ireland, than to face it! In what a situation did this place us? we had destroyed the balance of power, and had distributed out Europe to the domination of two or three of the larger Potentates, who might at any time be combined against us, when they felt galled that England should pursue her own interests in recognizing the independence of the South American States. In such a case, instead of finding Ireland, as she would be if England did her justice, an insurmountable barrier, they might meet a people driven to desperation. England then would see her error; for if ever she were destined to follow in the fate of other nations, Ireland was the sea in which she would be swamped (hear, hear). Instead of Holy allies it was our obvious policy to seek an alliance with six millions of people, our own subjects. Ireland, in her present state, was the flaw in the heart of the empire. Let any man reflect on the transactions of the late war, and the dangers which Ireland so narrowly escaped; had the French Fleet landed in Bantry Bay, Ireland was irrecoverably gone. The sun of England was set, and set in eternal night (cheers). We could only attribute our escape to the extraordinary ignorance of our enemies, but we must not presume that now they were equally ignorant. They had had an extensive intercourse with us, had passed through the country, and had made themselves acquainted with the sentiments of the people; they accused England of hypocrisy in expressing a sympathy for the Negroes, and a desire to get rid of the slave trade, whilst she maintained a tyranny the most cruel over the Catholics of Ireland (hear, hear). These sentiments, constantly repeated in the French papers, ought to excite suspicion in the breasts of Englishmen, and urge them to consider how they could cure this evil, the continuance of which exposed the country to constant peril. This was the time to consolidate our resources, and to conciliate all parties—if it were omitted, no man could answer for the consequences. He therefore addressed himself to men of all parties, and, founding the question upon policy and justice, would appeal to their good passions as well as their bad, to their feelings of patriotism as well as their self-interest, and would tell them they ought all to unite in the necessity of doing justice to the people of Ireland. We had entered into a covenant of conciliation with Ireland; we had held out the prospects of peace, and wealth, and nothing could be more irrational than to stop in our course when we had done just enough to make it so injurious not to proceed, as that it would have been better not to have entered at all on a career of liberality and justice (hear, hear). Suppose these

claims were complied with, what would be the consequence? A few Catholic gentlemen of great respectability would obtain seats in that house, and a few Catholic Peers would, as a matter of course, take their seats in the House of Peers. The King would have his prerogative enlarged, enabling him to place certain Catholic gentlemen in high offices; but what substantial power would this confer? Was there any fear that we should have a Popish King to betray and overturn the country? Until he heard what the danger was, he could not account for the opposition to the measure. The present time must be admitted by all parties to be peculiarly auspicious for taking the step which we were implored to take. The opinion of the country—that was, of England—of the larger, as well as the more enlightened part of the Protestants in Ireland, was decidedly in favour of granting the Catholic claims, because men felt that their own interest depended on their doing so. There was but one small faction in Ireland which opposed this liberal policy; and that opposition arose from their unwillingness to be deprived of the power they had been accustomed to exercise. He spoke of the party called Orangemen, to whom, at the same time, he was desirous to do full justice. It was his fortune to have been in Ireland—he had seen there both the Orangemen and the Catholics. Both of them he had always found to be equally disposed to be kind to their inferiors; and it was a great mistake to suppose that the landed gentlemen of Ireland were worse landlords or worse neighbours than those of any other country. There might be a few low pettifoggers hanging about the existing system, who might deserve this character; but he believed that, take the mass, there did not exist more honourable or more liberal men than the Orangemen of Ireland. This, however, was apart from their unfortunate propensity to domination, and from the right which they fancied they had by birth, to trample upon their Catholic fellow subjects. Except only this, and they were more kind in manner, and at least as kind in the essential, as gentlemen of England or any other country. It was time for them to get rid of this absurd and exclusive spirit—to consider only of the means by which the happiness and prosperity of their country could be increased—a prosperity in which they could not fail largely to share; as, instead of living in a society constantly tumultuous and distressed, they would see wealth and tranquillity on every side, superseding those measures of coercion which were at once the shame and misery of every state in which they were called into operation. For the people of England, too, independently of securing the country against foreign dangers, they had, in point of economy, a deep interest in the question of Catholic Emancipation. They who paid taxes would do well to consider what it cost to support the present system in Ireland. They talked of wanting taxes taken off; and the Chancellor of the Exchequer had proposed a few repeals, which were more acceptable from the complex machinery which they got rid of than from any immediate burden of which they relieved the subject; but, in Ireland, instead of thousands, millions might be saved at once by a change of system, independent of the wealth which must flow in from that country when once governed by a more liberal policy. If tyranny were a luxury, it was a very expensive one; of all modes of government, however simple in seeming, it was the most

burdensome and costly. And all this expense, let it be recollected, came out of the pockets of England. In good faith and justice—for he never would give up the treaty of Limerick—in good faith and justice, we were bound to do all the Catholics desired. The understanding at the Union—that measure which had been a union in point of form, but which had left the division between the two countries more wide and open than ever—the understanding at the Union had been distinctly, that the Catholics might expect from a British Parliament that justice which the mean and corporate spirit of their own, gave them little hope of. The Attorney-General for Ireland had stated that when the Marquis Wellesley undertook the Government of Ireland, he found the vessel of state like a wreck upon the breakers, and that he enabled her to float upon the tide of prosperity that had since flowed in upon her: he hoped the Government would not stop there, but that they would trim the rigging, set all to rights, and above all, man the vessel well (cheers). He still hoped to see such an extension of the feeling entertained by that noble individual, that Ireland and England should be looked upon as one and the same country, and that men would feel, when they discussed the interests of an Irish province, as though they were arranging the affairs of Yorkshire or of Lancashire. Adverting to the opinions which the Attorney-General for Ireland entertained on the subject of Catholic Emancipation, he trusted that they would have due weight in the quarter in which the learned gent. now sat; and that he might be able to make a convert of a rt. hon. friend of his, a cabinet minister, who, unfortunately, was opposed to the claims of the Catholics of Ireland. It could not be denied, that since the system of the relaxation of the penal code had commenced in Ireland, the people of that country had received, with the most ardent expressions of gratitude, the benefits which that relaxation had conferred upon them. But if so much had been produced by small beginnings—if the field yielded so large a crop with so little labour, what a plentiful harvest might it not be expected to produce, when greater attention was paid, and greater labour bestowed on its cultivation. The people of that country were the most docile in the world. They were easily influenced by those whom they believed to have their real interests at heart. The Catholic priests were said to have a very considerable influence with them. They had so, and he should be sorry to see that influence diminished. He could assert, that they had always employed it for the tranquillity of the country. He was sorry that the disposition of the Irish to obey the laws where they were fairly administered, was not noticed in the way it ought. Of all the people he had ever met, the people of Ireland, as Sir John Davies had long ago observed, were the most willing to pay respect to the laws, where they had any protection from them, and the most contented and grateful for the smallest portion of justice. It was to be lamented that a people, enjoying so many blessings from natural situation, having the advantages of such ports, and rivers, and so many means of rendering them prosperous, should be deficient in good government. That want alone crippled all their energies, and rendered them discontented and unhappy. He did not mean to say that the particular measure of

which he was then the advocate was to be looked upon as the panacea for all the evils of Ireland: it would be unfair to view it in that light. He should rather have it considered on its own grounds. He would wish to have it looked upon as the first step—as the *sine qua non* of all other measures which might be adopted. The question of Catholic Emancipation should be considered with reference to its own merits, and not mixed with other matter. He trusted that the house would not delay the putting a final stroke to this great work, which was to unite both countries in one bond under the protection of the British Constitution. He would not trouble the house by entering into any discussion on supposed religious objections, for he did not imagine there was any man in that house whose mind was so wrapped in prejudice as to assert that any individual ought to be deprived of his civil rights in consequence of his religious opinions. The only ground of objection which he could suppose was—that of some contingent danger to the State. When such an objection was urged, he would grapple with it, and endeavour to show that in the present state of society the fear was unfounded. For the present, therefore, he would say nothing on that subject, but would conclude by moving the resolutions he held in his hand\*.

Mr. J. W. Croker rose for the purpose of seconding the motion. He concurred with the hon. bart. in thinking that those rights

\* "That it appears to this committee, that in several acts passed in the parliaments of Great Britain and Ireland respectively, a certain oath, commonly called the oath of supremacy, is required to be taken as a qualification for the enjoyment of certain offices, franchises, and civil rights, therein mentioned.

"That in the said oath a declaration is contained, that no foreign prince, person, prelate, state, or potentate, ought to have any jurisdiction, power, pre-eminence, or authority, ecclesiastical or spiritual, within these realms.

"That it appears to this committee, that scruples are entertained by his Majesty's Roman Catholic subjects, with respect to taking the said oath, merely on account of the word "spiritual" being inserted therein; and that for the purpose of removing such scruples, it would be expedient to declare the sense in which the said word is used, according to the injunction issued by Queen Elizabeth, in the first year of her reign, and recognized in the act of the fifth of her reign, and which, as explained by the 37th of the Articles of the Church of England, imports merely, that the Kings of this realm should govern all estates and degrees committed to their charge by God, whether they be ecclesiastical or temporal, and restrain with the civil sword the stubborn and evil doer.

"That it is the opinion of this committee, that such act of repeal and explanation should be accompanied with such exceptions and regulations as may be found necessary for preserving unalterably the Protestant succession to the Crown, according to the act for the further limitation of the Crown, and better securing the rights and liberties of the subject, and for maintaining inviolate the Protestant Episcopal Church of England and Ireland, and the doctrine, government, and discipline thereof; and the Church of Scotland, and the doctrine, worship, government, and discipline thereof; as the same are by law respectively established."

of the Roman Catholics ought not to be longer deferred; but at the same time he considered that no arrangement would be satisfactory which did not include the Roman Catholic clergy, and decree a provision for them. If the hon. bart.'s motion were carried, as he hoped it would be, he pledged himself, that if no individual more worthy were found, he himself would move that such a regulation should form part of the bill.

Mr. L. Foster could not accede to the motion of the hon. bart. because he could not divest himself of the feeling that it would be injurious to the Established Church in Ireland. The hon. bart. had thrown out nothing which tended to secure that church. He was the more anxious on this subject, as he had heard, and the house had heard, from the hon. member for Aberdeen (Mr. Hume), a declaration that the Church of Ireland ought not to be suffered to continue on its present establishment. Such an opinion was not confined to members of that house. It was avowed by a rev. gentleman high in the Catholic Church in Ireland, who had been followed by several lay writers of that religion, that Emancipation ought to be accompanied with temporal grants, which would be inconsistent with the existence of the Irish Established Church. He was prepared to contend, that Emancipation, if it were followed as it was expected to be, with a permission to the professors of one religion to administer a Government essentially connected with another, would be against the spirit of the constitution, and that it would leave no means by which to decide which religion should predominate. It was to be regretted, that in advocating this question, on many occasions, attempts should be made to disparage the Established Church in Ireland. Its clergy were described as Orangemen—as men without property or influence but what they derived from the church. Great stress was also laid, in this question, on the numerical strength of the Catholics. That, he conceived, had nothing to do with the merits of the question. If every Government were to change according to the variations in the numbers of its subjects, all system resolved itself into the law of the strongest. But the number of the Protestants was by no means so small in Ireland as was generally asserted. Lord Charlemont had said to the volunteers, in 1782, that it was impossible for two millions of Catholics to be held in subjection by one million of Protestants. But that noble lord was mistaken in the actual numbers of the Irish population, and in the ratio between Catholic and Protestant. In the year 1821, the census showed that it was 6,800,000. He denied that there had been more than 100,000 increase since that time. The landholders of Ireland had seen the evil and had taken means to stay the increase of population (hear, hear). The necessity of such a course was now fully understood (hear, hear). But it was most unfairly assumed that the Catholics had increased, and that the Protestants had ceased to multiply. In the four provinces the number of Protestants was 1,860,000, and that of the Catholics 4,900,000, being numerically in the same ratio as Sir William Petty stated in his account of Ireland: among the Protestants there were not more than 665,000 dissenters of various sects. He must now proceed to another point, which he considered of considerable importance. Some years ago, the house was asked, on the subject of the Catholic Emancipation—"What are you afraid of? You have

a sovereign on the throne of France, who is an enemy of all religion; you have the Pope a prisoner; you have got rid of the Jesuits; you hear no more of the infallibility of general councils; you have, indeed, a Roman Catholic religion, but of a very different character from that by which it was formerly distinguished;—of what then are you afraid?" The very mode in which this argument was put, showed that the parties who used it thought that there might be just ground of alarm in a king of France who was a firm friend to the Roman Catholic creed, in a Pope who was firmly established in his chair, in the existence of the Jesuits as a religious body, and in the restoration of the Catholic religion to all its old superstitions. Now let the house consider how the case stood at present. The Royal Family of France could not be taunted even by their bitterest enemies with being indifferent Catholics (hear). The re-establishment of the Catholic religion in all parts of the world where it had once been professed, was their first and leading passion (hear, hear). The chair of St. Peter was at present filled with a worthy successor of the Gregories and the Clements, his equal had not been vested with the tiara for many centuries (hear, hear). The Jesuits were again established,—not merely in France and Spain, but also in England and Ireland (hear, hear, and a laugh). The Catholic religion was again dealing out its miracles and indulgences, and displaying a spirit of intolerance and persecution which could only be equalled by that which it had displayed in the seventeenth century. The present was one of those epochs in which the prevalence of religious zeal was conspicuous. This was proved by the numerous Bible and missionary societies, which now existed in England, and by the proposition of a law of sacrilege in France, which was worthy of the most intolerant period of the reign of Louis XIV. The present was, therefore, in his opinion, the very last moment when any change should be made in the political condition of the Catholics. He was hostile to such change, because he saw them mixing up politics with religion, and because he knew that the alliance between religion and politics was always dangerous (hear, hear). He had been led to consider the compact between church and state as one of the principles of the British Constitution. To any measure, therefore, which tended to weaken that compact, he should always oppose the most strenuous resistance, regardless of all the reproaches which might be heaped upon him for so doing. He concluded by eulogizing the union between church and state, and sat down amid considerable cheering.

Mr. Conning said that he rose at this early period of the debate, because he was apprehensive that if he did not take that opportunity of addressing them he should not have strength at a later period. He praised the moderation with which the hon. bart. had brought forward his proposition, and expressed his intention of following his example. He should, therefore, not enter into any controversy, nor touch upon topics calculated to create an irritating discussion. He should confine himself to the expression of an opinion he had repeatedly expressed, and which he should be ready to support under any circumstances, from whatever quarter the support of it might be claimed (hear, hear). Undoubtedly, if his opinion and advice had been taken—and he by no means complained that it had not—he should have said that he did not

conceive the present to be a favourable opportunity of bringing on this question. But having said that, he should pursue the topic no further, because he might appear to throw a doubt which he did not feel on the justice of the cause (hear, hear). The question was, however, before them, and it was their duty to consider how they would deal with it. He would deal with it now as he had upon every other occasion, and would not hesitate to give it his most cordial and conscientious support (loud cheering). Although there were circumstances which made him consider the present an unfavourable time for the discussion of these claims, personally he was not sorry that they had been brought forward. After having recently lent his aid to restrain and suppress the irregular zeal of some of the Catholic body, he was not sorry to have an opportunity of showing that it was only to the indiscretion, which had been superinduced that he objected, and that his opinions and feelings regarding the merits of it were, at the bottom, not only unaltered, but unalterable. The principles upon which this proposition appeared to him to be worthy of the consideration of the house were so plain and simple, that he could hardly imagine on what grounds it could be opposed. He could understand why a person who was called upon to vote in favour of it, might demand that many modifications should be introduced, many concessions qualified, many inconveniences provided for, and many dangers—some of them, in his opinion, imaginary, and others real—guarded against; but he could not by any process of reasoning understand why all the subjects of the same kingdom, all the inhabitants of the same soil—who mingled in the daily offices of life, and professed a common Christianity, should be excluded from the common benefits of the constitution of their country (cheers). The *onus probandi*, the necessity of making out the reasons for their exclusion, was thrown upon the other side. It appeared to him that the state in which they now stood had been justly described by his hon. friend (Mr. Foster), as a state which was now a century old. But, as that hon. gent. had said, "what was a century in the age of religion?" By altering the present system, we restored to it that which had a still longer age in its favour. If the argument of age were of any value, why did they hesitate to restore the Catholics to that state in which they were placed before the passing of the penal laws? To stand where they were, was to alter; to make a change, was to return to the old system (hear, hear). By this statement he pressed into his service all the enemies of innovation, unless it could be shown that the present state of things was fixed in so strong a necessity, that it could not be abandoned without a dereliction of principle or of honour (hear, hear). He was too weak to enter deeply into this question. One or two topics, however, had been urged by his hon. friend, which he could not bring himself to pass over in silence (hear, hear). His hon. friend had set out by saying, that nothing was so dangerous to the peace of society as the alliance between politics and religion; and how did he conduct his speech? By a laboured eulogium on the alliance between church and state (hear, hear, and a laugh). He could not imagine how it was that it never occurred to his hon. friend on the many occasions on which he was called on to utter those mystic words at night con-

vial moments than the present, to ask himself if church and state was not an alliance of politics and religion (hear, hear, and laughter). He concurred, however, up to a certain point, with the opinion of his hon. friend. He did think that the alliance of politics and religion, where it led to a divergency of sentiment, and to the doubtfulness of allegiance, was to be denounced as eminently objectionable; and here, again, he must look to his hon. friend's speech for an illustration. His hon. friend had told them, that never was the feeling of religious zeal so paramount over political ambition among the governments of the Continent as at the present time. He believed that to be the case; but what was the inference he drew from it? Mankind were divided into two classes, by two lines of demarcation. There was one line between the Protestant and the Catholic churches, and another between British and foreign influence. He would say, "Efface the line of separation which divides the inhabitants of the British islands into two classes, and by so doing strengthen the line of demarcation which separates British from foreign influence" (cheers). These were the principles on which he had always advocated the Catholic cause. It was unnecessary for him to say to his hon. friend, that with regard to the dangers which he and other hon. members anticipated to the Protestant Establishment, he had lately given a pledge, which he was now ready to repeat, that he would go as far as any man to retain it in full dignity and security (hear, hear). He would go even further: he would declare, that if his reason could be convinced, that they must either stand where they then were, or by proceeding risk that establishment which was interwoven with their happy constitution, he would stand where they then were at all hazards, and at the hazard of being charged with inconsistency, oppose the motion of the hon. baronet. It was because his reason could not be convinced of this fact, but was convinced of the contrary, that he was now determined to support it (hear, hear). It was because he was convinced that it would increase the strength of the empire at home and its respectability abroad, that he was for opening wide the vest of the constitution, and receiving in its bosom all those who lived in its allegiance, and were ready to support its Government (hear, hear).

The *Solicitor-General* declared himself hostile to any further concessions to the Catholics, and contended that if any gentleman had, upon former occasions, made up his mind to yield them, he ought now, from their recent conduct, to alter his resolution. Claims which had been denied to reason, argument, and quiet solicitation, ought never to be yielded to menace or intimidation. He could never find out what the Catholics proposed as their *ultimatum* (hear, hear). Former concessions were made the groundwork of further demands (hear, hear). Whatever admiration he might feel for the talent of his learned friend the Attorney-General of Ireland—however he might feel that he was "*improvisator celestis*,"—still he must oppose him upon this subject, and rebut the arguments which he continued to bring forward in this sanctuary of legislation (hear, hear). His learned friend had said, "You gave the Roman Catholics political power when you gave them the elective franchise; why, then, do you hesitate to give them more?"

Nothing was withheld from the Catholics under the present laws, but the bench, the parliament, and the high offices of state (hear, and a loud laugh). If these were granted to the Catholics, he had no doubt but they would ask for the church also (hear, and a laugh.) Gentlemen might smile; but he would give them proof that what he had just said was not mere idle assertion on his part. He would read to them a passage from the proceedings of the Catholic Association. It was proposed in that turbulent assembly to present a petition to the House of Commons for the abolition of tithes, and to send it for presentation to the hon. member for Aberdeen, because he had taken the Church into his holy keeping. The hon. member had brought in a string of resolutions, twenty or thirty in number—he was wrong—only six or seven (loud laughter). If they were not numerous, they were at least strong. The hon. member's plan was to slice and cut up the Church of Ireland as if it were the shares of a joint stock company. He objected to concession on account of the power of the priesthood. Since the Unlawful Societies bill had been before the house, a Dr. Magee had said at Kilkenny, that "If they put down the rent, we will make the public advance it on the altar, as the price of their redemption." Was this language to be tolerated? Were these men whose power was to be despised? The Catholic priesthood would enter into no compromise with our Government. Under Lord Howick's administration, in 1813, they rejected the *veto*, and at the time of Mr. Grattan's attempt, the domestic nomination. He knew how to deal with the Catholic laity, for they had no interest separate from the state (cheers from the Opposition); but not so the Catholic clergy, for they had avowed a distinct interest, which, with their great controlling influence, they were determined to work for the overthrow of the Established Church, and the possession of its wealth, and ecclesiastical revenues. It had been said that the Catholics merely asked for equal privileges with the Protestants. This was not to state the case fairly: they asked for more; for the Protestant church had not in any way the same influence as the Catholic over the minds of the Irish people: so that if the two churches were placed upon a par in point of civil privileges, the preponderating influence in Ireland must be with the Catholics, and the overthrow of the present Church Establishment must follow. This concession to the Catholics would involve a violation of the constitution. Was not the principle of the Protestant religion in church and state, made a fundamental and inviolable part of the compact with King William III., after the expulsion of James II.? And would they abandon that indispensable principle of the Bill of Rights? It was true that the Catholics might be more numerous than the Protestants in Ireland, but this was not an Irish, but a British question; and in Great Britain the numbers of the Catholics generally was much inferior to that of Protestants. He was surprised to see this experiment attempted so repeatedly upon the constitution; and should therefore oppose the motion.

Mr. S. Wortley expressed his firm belief, that no substantial peace would be established in the country, until this question were conceded, and the Catholic and Protestant population of the empire incorporated in one feeling of civil concord. The learned gent. who had last

spoken, had asked the house where they meant to stop in this range of concession? They ought to stop when they had done justice to the Catholics and not before (hear, hear). It was no part of his inquiry to ascertain what would or would not satisfy the excited feelings of the Catholics; he would do them what he thought to be justice. But the learned gent. declared that this was not the time for making concession, lest it should be interpreted as a wish to conciliate the Catholic Association, which they had just determined to put down. He thought, on the contrary, that this was exactly the time when they ought to show the Catholics, that though they would not permit them to overawe or usurp the functions of the constituted authorities, yet they would not deny them the enjoyment and exercise of those privileges which the constitution conferred upon the people of a free country (hear, hear). They had been told that the Catholics, though a majority in Ireland, were, nevertheless, a minority as compared with the whole population of the country. That was no reason for excluding them from eligibility to civil privileges, for if it were, it applied equally to other Dissenters, who were still permitted to form a part of the legislature. When the learned gent. talked of the overwhelming power of the Catholic clergy, and their desire to overthrow the Established Church, he was starting a chimerical apprehension; his fears were absolutely vague and groundless. This question was virtually carried in the year 1812; from that moment he considered its ultimate decision irrevocably fixed, and if so, why continue these protracted discussions? He was ready to guard the passing of the measure with the best provisions for the security of the Protestant Church Establishment (hear, hear), and to take care that it remained as firm as it did now. Sure he was that if they continued to refuse to the Irish people their just and natural rights, they would do more to endanger the Protestant church and state, than they could possibly do by the enactment of any measure of concession and conciliation (hear, hear). He expressed his opinion thus openly, because it differed from that of many of his constituents, but if the minds of the people of England were changed, they would have petitioned the house on the subject. His impression, therefore, was, that the repeated discussions within that house had mainly brought the public out of doors to a calm and temperate consideration of the subject, and that they left the decision to the deliberate judgment of the legislature (hear).

Mr. Banks (Cambridge Univ.) said, that the absence of petitions against this bill was ascribable to the little time which had elapsed since the notice of the discussion was given. He knew that petitions were in preparation if time permitted, and that the heads of colleges of the learned body which he had the honour to represent were convened for the purpose by the Vice-Chancellor, who was not a member of the Established Church, but a layman. With respect to the general feeling of the people, it appeared strange to him how they could have altered their former opinion—with what spells the Catholic Association, its edicts, or exhortations, civil or spiritual could have made converts of the Protestants, he was at a loss to guess. If what had alienated the friends of the Catholics, had at the same time reconciled their Protestant opponents, then Prince Hohenloë must have been at work with



both churches (a laugh). With respect to the dangers to be apprehended from concession to the Catholics, he could only say, therefore, that if a large body of Catholics were to be invested with extensive privileges, and a certain number of them to obtain a footing in that house, an opportunity would then be afforded of agitating such questions as would facilitate the overthrow of the Irish Church. The Catholics in the prosecution of their claims looked farther than to the enjoyment of civil privileges. [Here the hon. member pulled a paper out of his pocket, and read part of a speech.] Mr. O'Connell says, "It was suggested to me, if we desisted from petitioning against Church Rates, and against the payment of tithes in parishes where there is no Protestant Clergyman, or the building of churches where there are no Protestant inhabitants—if we would confine our views and our ambition to procuring seats for some half dozen of our Peers in the House of Lords, and a few of our gentry in the House of Commons, we might have that privilege at once; but we will consent to no such compromise." [At the words "payment of tithes in parishes where there are no Protestant clergymen," the hon. member was interrupted by a general laugh, and loud cries of read, read; the hon. member betraying rather an unwillingness to proceed with the quotation. On coming to the words "no Protestant inhabitants," there was another laugh, and a cry of read, read. The hon. member said that he had read the wrong part, and was going to put the paper in his pocket, but the call of read, read, being repeated; he wondered, he said, at the impatience of the house, but read the following extract:—"We seek to establish a holy alliance between the English throne and the Irish people; and, so long as the mockery exists of making the people pay church-rates where there is no church, and the tithe where there is no parson."—When the hon. member came to the words "tithe where there is no parson," he was disposed to stop, but there was another general cry of read, read, and loud and continued laughter. The hon. member put away the newspaper from which he was reading. He then continued.] The hon. gentlemen opposite were very loud. He would confess that he had watched the progress of such things, and they went on hair by hair (great laughter). The hon. member said a few words more, and apologized for addressing the house.

Mr. Pakenham said, he had long since made up his mind on this question. With deep and intense feelings for the maintenance of the best rights of the empire, his decided and inalienable conviction was, that this measure could not be too speedily carried—that no time was too early for its adoption; and none could arrive, when it should not have his most zealous support (cheers). With respect to what had fallen from his learned friend (the Solicitor-General), as to the expediency of the time, why did he call upon those who differed from him to consider that part of the consideration? At what time would he be prepared to declare his consent to such a motion as this (hear, hear, and a laugh)? He feared that his learned friend had made up his mind to a perpetual opinion, which would render any argument as to the expediency of time a useless waste of words. If it be a time of calm—if the sea be still, if there be no agitation among the Catholics, he will tell you—*non quiescit movere*

—nobody calls for such a discussion. If the ocean rages and the wind blows he will say the storm must be controlled (hear, hear). So that in calm or in storm, there would be no time that was not inopportune in his learned friend's view of the matter. He (Mr. P.) entirely agreed in the observation of the hon. member for Yorkshire, that there was a peculiar grace and fitness in the present time. Some of the friends of the Catholic body had been induced, by what he felt to be a most painful necessity, to enact a measure of restriction; it was therefore just the time to show the Catholics generally, that, notwithstanding this necessity, Parliament was still ready to consider the justice of their claims. He solemnly assured the house, that if he thought this measure could risk in any degree the security of the Church of Ireland, instead of being its advocate, he should be found among the ranks of its warmest opponents. But he thought the measure eminently qualified to support that church. Some allusion had been made to former bills, and among the rest to one of his own, respecting this subject; and to show how clearly on all these occasions the security of the Established Church was provided for, he would read a paragraph from his own bill of 1831, which was copied from the preceding bill of Mr. Grattan; it was as follows:—"And whereas the Protestant Episcopal Church of England and Ireland, and the doctrines, discipline, and government thereof, and likewise the Protestant Presbyterian Church of Scotland, and the doctrines, discipline, and government thereof, are, as between Great Britain and Scotland, severally and respectively, permanently and inviolably established in these realms." Could it be said that no adequate provision had been made for the security of the Established Church? His learned friend (the Solicitor-General) had failed to show that the measure was at variance with the principles of the constitution: the excellence of our constitution was, that it had no unbending principles, no positive regulations, but adapted itself to the varying circumstances of society as they arose. The claim of the Roman Catholics was to be admitted members of a free representative government—to be admitted to institutions the advantages of which belonged equally to every subject of that government. He did not say that the principle would admit of no exception or control, or that these advantages formed part of a great common which had been left unenclosed. There was nothing in the social fabric concerning which he would venture to make that assertion. Even the enjoyment of natural rights must in a state of society be qualified with conditions; but these conditions ought only to be imposed in the degree which would be the most likely to protect and preserve the rights and privileges of all. Whether the rights enjoyed by individuals were of the character of natural or of chartered rights, they were liable to be sacrificed to general expediency. But then the expediency must be clearly and unquestionably made out. He directed the attention of the house to the circumstances under which our ancestors had thought it necessary to limit those rights in a peculiar manner with respect to Roman Catholics. At the reformation the main object was to protect the rights of the throne against the claims of a foreign power, and against the disaffection of those subjects who might reserve their allegiance for that foreign power, to the detriment of the throne

and of the state in general. The legislature accordingly provided—first, for the absolute integrity and inviolability of the church; further, for the spiritual prerogative of the crown, forbidding at the same time the exercise of any other than the established religion. These provisions of the legislature were intended to prevent the claims of the Pope, or any other foreign power, to interfere with the Church. Did they bear at the present day of any claim to that interference, to the right of deposing kings, or dissolving the allegiance of their subjects? Was that believed or asserted by any man in either kingdom? Those enactments were, therefore, gradually done away. The law forbidding the exercise of any other religion was done away by the repeal of the act against recanancy; therefore the act of uniformity, was at an end, and in deciding what ought to be conceded to the Catholics in the present day, we ought not to act upon the alarms which prevailed at the time of the reformation. The wisdom of our ancestors watched the progress of time, and took their measures accordingly. In the reign of Charles, they observed a new danger—a monarch careless about religion, or secretly affected to an unconstitutional one, and likely to be followed by a Popish successor. They provided a remedy, not adapted entirely to meet the evil, but the best they could devise, which was to require certain oaths to be taken by those who were to take seats in Parliament. That having been found insufficient on the accession of James II., who openly maintained the Roman Catholic religion against the constitution and the rights of his people, the legislature prudently shifted their ground, and had recourse to a measure at once wise, bold, and salutary. They drove the monarch from the throne for violating the constitution, and they resolved that the sovereign power should be held unalterably in Protestant hands (cheers). Did he deny that the throne must be Protestant? Was he suspected of wishing to subvert the Established Church because he was the advocate of the Catholics? If not, and the dangers of the period to which he alluded had ceased to exist, he called on the house to be just, and concede to the Catholics that equality of rights of which they had been so long deprived. But to return. What were the dangers which afterwards threatened the establishment? The claims of an exiled family driven from the throne, and the plots and agitations of a disaffected party retained in its interests. He admitted that the Roman Catholics of that period were suspected justly. All the former measures against the Papists were continued. They were not to be trusted with honour or power in the state. They were coerced in their persons and property—were deprived of their civil rights—and became sunk and degraded into that wretched state, from which they were relieved by the benignity of the last reign. This was a natural course of proceeding, though he did not conceive it a very wise one; but it showed that our ancestors adapted their remedies to the evils then existing, and premised upon their apprehensions. In 1781, a new danger and a new difficulty presented themselves. The Catholics were so sunk and degraded, that by the depression and privations imposed upon them, the heart's blood of the state was impoverished. The landlord found that his lands could not be cultivated—the energies of labour were every where para-

lyzed. If the annals of that period were to be properly read and considered, the late King would be for ever illustrious in history, as he was entitled to the especial gratitude of every Roman Catholic in Ireland. That system of beneficence which he introduced had been now in practice forty years—it had raised the Roman Catholics of Ireland to a state of affluence and respectability—it had given them a perfect equality of civil rights—it had enabled them to participate in the advantages of our institutions. What was the danger they had now to dread? It was not that the Pope would attempt to govern the Church of England; that he would arrogate to himself the power of absolving the subjects of those realms from their allegiance; not that any Popish adviser might obtain a situation near the throne; not that the Roman Catholics, if admitted to an equal participation in the constitution, would become bad subjects—for we had found that even under all their privations they had been faithful and loyal. We had to fear not any of these dangers, but dangers of a new and different kind. The hon. member for Louth had spoken alarmingly of six, or five, or four millions of persons in the communion of the Roman Catholic Church. What he feared was to see four millions—taking them at the lowest—of subjects, having wealth, power, and respectability on their side, awakened to a full sense of their condition, coming up year after year to claim the rights and privileges enjoyed by their fellow-subjects, and retiring dejected and disappointed continually (loud cheers). That was the danger the house had to fear. Yet the hon. member for Louth would persist in telling them not to look at the dangers of their own times, but to go back to the reformation, the reign of James II., and the revolution. He would say that the present danger was the greatest, perhaps the only one for them to consider. The other argument proved a want of acquaintance with human nature; an ignorance of the use and application of the manual of history. It had been well said by one of our greatest philosophers, "that time is the greatest of all innovators" (cheers). Time never slept—never stopped;—it moved on with rapidity and with certainty, changing in its course the aspect of all human affairs (cheers); and it was the province of human wisdom to keep close to the wings of time—not for the purpose of destroying their effect, or wresting their course—either would be an impossibility—but in order so to direct the government of a state, as to make its varying form correspond with the varying form of time and circumstances (cheers). If we went back to the necessities of former times, in order to justify our legislation at the present day, we should be led into gross error; we should make history no better than an old almanack; we should make experience no better than a swindler, who thrusts upon us a false coin which we utter at its imaginary value; we should make knowledge and prudence change their names for folly and dotage (cheers). He did not mean to assert that there were not many dangers on the present occasion, but the question was, how to meet them? If the Roman Catholics came in a clamorous and turbulent manner; if they raised the shouts of expected triumph, he should laugh at their insolence; if they came with threats and menaces, he should despise their insolent boasting; if they came with force and arms he should meet them with force, and easily

subdue them; but when they came before us humbly to solicit justice—when they came before us to implore an equal participation in the blessings of the British constitution, he confessed he had no armour with which to oppose them (loud cheers), and he knew of no mode of treating them but that of taking them to his arms as allies, friends, and equals (cheers); as men who were to enjoy equal rights and privileges with himself, and who were cordially to co-operate with him for the defence and security of this country, be it at peace or be it at war (loud cheers). They were told that there was a bar—that the principles of the constitution were opposed to the admission of the Roman Catholics. He had read with eagerness—he had carried on his researches with deep anxiety—he had endeavoured hard to find out where that principle could be discovered, and he solemnly declared that he could not discover it. It had been urged that there was a material difference between civil and political rights, and that dissenters from the Established Church, though enjoying the one, were debarred from the other. Did not every day's experience disprove that assumption? Was not the hon. member for Norwich a proof of the contrary? Had there not been a Lord Chancellor of England (Lord Rosslyn) who was a Dissenter? Were hon. members ignorant of what had been doing in Ireland? The test laws had there been repealed for fifty years, and the dissenting influence had ever since been on the decline (loud cheers). When that repeal was talked of, there was great alarm. Dean Swift, with all his wit and talents, felt and spoke of it with horror, and prognosticated from it the immediate downfall of the Established Church and Protestantism. For forty years past it had not been heard of, was almost forgotten; and the Dissenters had ever since declined (cheers). On the other hand, the laws of persecution had remained in force against the Catholics, and that body had gone on increasing in numbers, in influence, and in respectability (cheers). But it was said the Roman Catholics must not expect political power; that the constitution prohibited. Was there nothing of political power in what they possessed? They had the right of electing members to serve in Parliament. They acted as magistrates; they served as jurors. This country had liberally imparted education to them; did not that put the means of political power within their reach? Where was this line of difference between civil and political power marked in the constitution? The warmth of discussion apart, he denounced the doctrine as inconsistent with the principles of our free constitution, and only fitted for the meridian of a despotic government. He once endeavoured to define civil liberty to the house; he used the description which he found in the books—Civil liberty consists in doing all that which the law allows you to do. But he went beyond that. There was also a political liberty which secured every man the exercise and enjoyment of civil liberty. Once admit men to enjoy property, personal rights, and their equal consequences, and on what pretence could they be excluded from the institutions by which the whole of these must be guarded? It was asked, what have the Roman Catholics to complain of? They are only excluded from the Parliament, the bench, and the offices of state (cheers)—which meant, that they were only excluded from the making

and administering of the laws, and from all posts of honour and dignity (cheers). These were bagatelles, for which, according to the argument, it was not worth while for the Catholics to contend, and therefore it was scarcely worth the while of the Parliament to refuse. How would the learned gent. who used this argument like to be excluded from his chance for these trifling privileges (loud cheers)? He begged to ask if these were not the very privileges in defence of which Englishmen would cheerfully lay down their lives (loud cheers)? Did they still talk of the danger of admitting the Catholics? He put it to the house to consider if they would willingly see such a body represented any where but within the walls of Parliament. Shutting them out from Parliament, after giving them every thing else to render them of consequence, was teaching them to array themselves elsewhere. Somewhere else they must go, if the house could not make room for them. God forbid the recurrence of bad times; but it might happen that a bad prince might mount the throne, and then, perhaps, being refused admission where they had a right to it, they would range themselves behind the throne and assist in the sacrifice of these liberties in which they never participated. His learned friend, the Solicitor-General, was satisfied as to the laity, whom he considered as sufficiently good subjects. The danger which his learned friend apprehended was from the Roman Catholic church. He dreaded, in a country where the majority differed from the religion of the state, the uncontrollable and all-controlling influence of priests, who were themselves detached from the state. France, it had been said, had of late shown herself active on the subject of religion; and looking at what might be her views with regard to Ireland, there would be great danger. If the measure now proposed had for its object or tendency to increase the power of the Roman Catholic clergy, then there might be grounds to pause and to think the measure attended with danger. But had his learned friend any remedy of his own, since he did not choose theirs? His was the old *pancea* of trusting to time and proselytism. Much might be done by proselytism. The children of their children might see strange things—they might see the portals of the constitution thrown wide open to all religious persuasions. But that prospect was remote and uncertain; while the dangers around them were clear and imminent. So long as a line of demarcation was continued between Protestants and Catholics, so long the latter were aliens to the state; in the meanwhile proselytism would be at a stand, for any man who became a Protestant under such circumstances would be abhorred as an abject apostate. As to the measures calculated to remedy these evils, he would begin by doing away grievances; he would first relieve those who were bound by a common bond of oppression. He would make a respectable provision for the Irish Roman Catholic clergy. In his opinion this should accompany the bill of emancipation. They had been told that the Irish clergy would not accept it. He gave assurance, upon a considerable experience of that country, that they would receive it with sentiments of gratitude. The Roman Catholic clergy would not, it was true, purchase a permanent provision by the disgrace of having abandoned their flocks, but if the laity were relieved from disabilities they would gratefully

receive it. There was no danger of their ever attempting to usurp the Protestant hierarchy. If that hierarchy were destroyed to-morrow, and offered to the Roman Catholic clergy, the laity would not permit them to accept it. Honourable members who knew any thing of Ireland must know the opposition which would be made by the laity to the resumption of power and tithes by their own clergy. But if the Protestant clergy persevered in resisting the claims of the Roman Catholics, was it not compelling the Catholics to oppose the Protestant clergy in self defence? He was a zealous supporter of the Established Church, but when he had been most zealous, he had never rendered it better service than in giving this salutary warning. If a foreign enemy were landing on the coast to-morrow, the house would not grant to the Roman Catholics any thing it could not concede with honour and safety to the Established Church. It was because he knew no such danger existed at present that he called on them to do that which a sense of justice ought to compel them to do even in a time of the greatest danger. Let them not be told of the want of acquiescence in the Catholic body. Take away the grievances first; then if the concurrence of that body were improperly withheld, they would be deprived of the power to do injury because they would be deprived of the power of just complaint. The Roman Catholics of Ireland were at present loyal and tranquil; they were determined to remain so. They were satisfied that there was a feeling in this country sufficiently favourable to them, and that something must sooner or later be done for them. The increase of wealth and other advantages which they enjoyed taught them to expect their freedom with becoming patience. If France or any other power speculated on dividing Ireland from the empire they deceived themselves grossly. The Catholics of Ireland would rally round the constitution at their approach. Why? Because the laws passed in the last thirty-five years had imparted to them advantages which they would not risk, much less exchange, for the chances of foreign rule. But he wished for something from them beyond loyalty; he wanted their affection and cordiality, and their unrestrained confidence; and he would obtain these by giving them an equal participation in the blessings of the constitution (loud and continued cheers).

Mr. Peel did not find all the arguments he had heard sufficient to induce him to deviate from the course he had uniformly pursued. He thought the hon. bart. in his able and conciliatory speech, had introduced the question on its true grounds—on the grounds of positive treaty, natural rights, and political expediency; and in that order he would examine his arguments. If in the first place there really existed a claim on the part of the Roman Catholics, established by solemn treaty, he should be disposed to treat it with the utmost deference. But he denied that the Catholics could claim any privileges on the foundation of the treaty of Limerick, or that any privileges had been withholden in violation of its terms. He would not now enter into the question whether the act passed in the reign of Queen Anne was an infraction of that treaty. He admitted that that statute was an unjustifiable measure; but the house must consider that it was an act of retaliation against the Catholics for what they had done while in possession of political power. By the first article of the treaty the Roman Catholics were exempted

from all molestation on account of their religious tenets: by other articles they might claim the privileges of property on taking no oath but that of allegiance. The hon. bart. extended their right to a claim that the Roman Catholics should be entitled to the enjoyment of office on taking the oath of allegiance only: that he denied, and rested his denial upon the speech of Sir Theobald Butler, who was employed by the Roman Catholics to speak in the House of Lords against the bill for preventing the growth of Popery. The whole of his argument went to show, that the six objectionable clauses of the act were an infraction of the rights not of the Roman Catholics, but of the Dissenters. Yet he was Solicitor to James II., and employed in drawing up the treaty of Limerick. "The 10th, 11th, 12th, 13th, and 14th clauses of the bill," said he, "relate to offices and employments, which the Papists of Ireland cannot hope for the enjoyment of, otherwise than by grace and favour extraordinary: and therefore do not so much affect them as it does the Protestant Dissenters, who, if this bill pass into a law, are equally with the Papists deprived of bearing any office, civil or military, under the Government, to which by right of birth, and the laws of the land, they are as indisputably entitled as any other their Protestant brethren; and if what the Irish did in the late disorders of the kingdom made them rebels—which the presence of a king they had before been obliged to own, and swear obedience to, gave them a reasonable colour of concluding it did not—yet surely the Dissenters did not do any thing to make them so, or to deserve worse at the hands of the Government than other Protestants. Whatsoever the Papists may be supposed to have deserved, the Dissenters certainly stand as clean in the face of the present Government as any other people whatsoever: and if this is all the return they are like to get, it will be but a slender encouragement, if ever occasion should require for others to pursue their example." With respect to the claim on the ground of natural right, it had been agreed that the legislature had no more right to exclude the Roman Catholics from office than to divest them of their property: but he could not allow that the subjects of this country had any such claim as an abstract right, and he did not believe that the doctrine had been maintained until the year 1790. Previously to the reformation there had been no dissent, and consequently no motive to exclude; no reason for frauds or checks: but ever since the reformation—for 300 years—that oath had been enforced which had operated to the exclusion of the Roman Catholics. As far as the practice of the constitution was concerned, it had gone in contradiction of the doctrine advanced by his learned friend. And when it was said that this principle of exclusion had existed from a period comprising about 150 years past, he must deny such proposition (hear, hear), for in his judgment it had its origin with the first rise of dissent in matters of religion. But let the house inquire a little what had been the doctrine of the most celebrated men in respect of this exclusion from civil offices. He had before had occasion to refer to certain opinions which he was sure would be received with the highest respect, particularly by hon. gents. on the opposite side. He would now allude to a former conference of this house with the Lords, on this very subject of right and capacity as to civil offices. It might be proper to premise, that the Lords had objected

to a bill which subjected to certain penalties those who should appear to have been guilty of occasional conformity. Among other important doctrines they declared, at this conference, that "Their lordships looked on the power of demanding qualifications for offices of trust to be one so naturally lodged with the legislature, that without being required to assign any reason for it, but on any apprehension of danger, however distant it might be, every Government might put such restraints, and regulate by such rules the entering into offices of trust as they should see sufficient cause for. But penalties and punishments were of a different nature from such restraints." Now could any thing be more clearly laid down than this distinction between penalties and disqualifications for office—between punishments and disabilities? That was managed by the Duke of Devonshire; the Earl of Peterborough; Burnett, Bishop of Salisbury; Lord Halifax, and the great Lord Somers (hear, hear). But if this authority would not satisfy his *rt. hon. friend*, what would he say to that article in the Act of Union with Scotland, by which Roman Catholics were permanently excluded from certain offices in Scotland? If, as it had been contended, there were an inherent natural right in members of the community to claim office, and that right were, as it had been represented, analogous to the right of property, was it possible to conceive that the great men who framed the Act of Union with Scotland would have ever introduced into that important measure the principle of exclusion, without reference to the dangers which were to be apprehended from its omission? And yet, without any of those immediate dangers from the power and tenets of the Roman Catholic church, about which the *rt. hon. gent.* had spoken as the only causes that could justify such a measure now, the law of exclusion was introduced into that Act of Union. He wished that the house would look at the debates of Parliament in the years 1771 and 1772, on the Quebec Act. Earl Camden and Lord Chatham both contended, "that the oath of supremacy was the great charter of the established religion of the kingdom." How could these opinions be reconciled with the doctrine of natural right? It must be admitted, indeed, that in the conference already referred to, the Lords acknowledged that exclusion by law from office was one of the severest punishments which could be inflicted on any class of subjects (cheers from the Opposition). But at a still more recent period of our history, 1790, when there were some very important discussions on the repeal of the test laws, Mr. Pitt did not support the principle of the *rt. hon. gent.* who had addressed the house this night. And yet Mr. Pitt was the warm friend of the Roman Catholic claims. Mr. Pitt said, "that if dissent were entertained of any one of the three branches of the constitution, it ought to be directed against the executive. The person excluded by the test laws laboured under no kind of stigma; but it was the policy of private life not to allow any man to manage your affairs whose principles you did not like." The same principle prevailed at present in this empire in respect to eligibility to the offices in question. If this doctrine of exclusion was not to be defended on such principles, on what grounds was the partial exclusion of the Protestant subject from the exercise of the elective franchise to be defended? The theory of the con-

stitution was this—that no man was to be bound by laws to which he himself did not assent—that no laws were to bind, in the passing of which he had not a vote. But did not every hon. gent. know, that practically speaking all this was not true? On what principle, again, was it that no man could sit in that house unless he were possessed of 300*l.* a-year? If the doctrine maintained by his *rt. hon. friend* were true, why might not the man of 200*l.* a-year sit there (hear, hear)? Or why might not all the inhabitants of the kingdom send him? He contended that the state had a right to exclude on any apprehension of danger: He might make history a miserable almanack, or convert experience into a swindler who passed base coin; but if he were to follow the advice of the hon. baronet he should derive no benefit from history, no lesson from experience: he should neither take a retrospect of the past nor a prospect of the future. He therefore felt himself compelled to deny the existence of the supposed abstract right; and though he did not feel himself conclusively bound by the existence of former laws, yet where he found a law had been passed 300 years ago to guard against dangers which he thought were still to be apprehended, he would not consent to the repeal of the law till it was proved to him that these dangers no longer existed. Exclusion from admissibility to office, was, he admitted, a serious evil; but it was a much less evil than those which would follow upon its removal; and this brought him to the third branch of the question, the political expediency of the measure proposed. The object of the hon. bart. he presumed, was to invest the Roman Catholics with admissibility to office, with a fair share in the framing and administration of laws; and the question was, whether the proposed measure of relief would conduce to the restoration of tranquillity? If he (Mr. P.) thought that it would—if he could persuade himself that having passed it, there would be an end of those unhappy animosities which all persons must unite in lamenting—he would not oppose any theory of the constitution to such an immense practical advantage. It was because he doubted whether the removal of disabilities would have the effect of re-establishing tranquillity, that he opposed the motion. Were these civil disabilities the cause of those disorders which had so long ravaged Ireland? If they were, how happened it that in the province of Ulster, where the numbers of the Roman Catholics and of the Protestants were more nearly balanced than in other part of Ireland—the Insurrection Act had never been enforced? In fact, the removal of disabilities, to the extent to which that removal had yet been carried, had never, hitherto, had the effect of tranquillizing the people. In 1792, the Roman Catholics confined themselves to asking for admission to the magistracy, and extension of the elective franchise to freeholds of 12*l.* a-year. The elective franchise was confirmed to them to the full extent in which it was enjoyed by the Protestants; and forty-thilling Catholic freeholders were created, in all respects on the same footing as Protestant freeholders; besides this, Roman Catholics were admitted to serve on grand juries. But, since these concessions, had the religious animosities of Ireland been at all allayed? He knew hon. gent. on the other side would probably answer, "nothing effectual could be done while any thing was

withheld; and the true secret of conciliation consisted in rendering Roman Catholics and Protestants equal in all civil respects, and in removing all Catholic disabilities" (hear, from the Opposition). Still it would be impossible to satisfy the Roman Catholics, even if their claims should be acceded to, that the distribution of offices was made without partiality or favour on the part of the Crown and of Government, when there were no longer any legal grounds of exclusion. They would entertain a jealousy of the Government, and consider the exclusion of a Roman Catholic, however accidental, a personal measure. It would appear that there were in Ireland about 4,500,000 Roman Catholics, and 1,800,000 Protestants. Here was an enormous disproportion of numbers. But the landed property possessed by the Protestants was as to that possessed by the Catholics in the proportion of about 20 to 1. It had, indeed, been stated as high as 50 to 1; but perhaps it was safer to take the former estimate. Was he to be told, that, retaining the religion of the minority as the religion of the state, it would be safe to allow the majority to come into an equal participation with them of rights and power (hear, hear)? It was to be recollected that the temporalities of that state religion were once possessed by that majority: and as long as that was the case, it was absurd to suppose that the Roman Catholics would be content with what they could get by the mere concession of their claims to be relieved of civil disabilities (hear, hear). As to the security of an oath, he did not at all mean to say, that he would not believe a Roman Catholic upon his oath; but it must still be asked, with what feelings—if he were actuated by the ordinary feelings of a man—would he look at the Protestant religion, its church, and its clergy? Would he look with the same eyes as we upon the principal epochs of our history (hear, hear)? At the Reformation, for instance, and the Revolution? Must he not regard the separation of our church, and the suppression of his own, as acts altogether unjustifiable? And yet it was proposed to admit the Roman Catholic, with feelings of this sort, to a participation in the privileges of the Protestant community. The bill which was to be brought in would admit the Catholic to office if the King approved the appointment, and on equal terms with the Protestant. Of what injustice would not the Roman Catholic have to complain of, if, after developing in Parliament all the talents and the zeal which might recommend him to the most important posts in an administration, the King, acting upon his right of sanctioning or withholding his appointment, were to refuse to consent to his entering upon the discharge of such high official functions; and yet, whatever might be his talents, could it be maintained that such a person would be well qualified to advise the Crown upon matters connected with the welfare of the Church of England? It would be much better, by keeping to the existing law, to prevent difficulties of this kind, than to leave the whole matter so to be dealt with by the discretion of the Crown. It was impossible altogether to lay out of view the spirit and temper of the Roman Catholic religion itself; and turning to these, he confessed that he looked with the greatest alarm to the restoration of the Catholics to power. In that case, too, the connexion of the Roman Catholic religion with the state would be one of a new character. It was pro-

posed to grant an establishment, and funds to be voted by the Government for the support of the Catholic clergy. It would be difficult to conceive the multiplied inconveniences and animosities that must arise from two establishments with almost similar hierarchies, the Roman Catholic prelaty boasting its apostolic transmission. In proof of the little alteration which the spirit of the Roman Catholic religion seemed to have experienced from time, notwithstanding all its asserted improvement in the 19th century, he read a passage from a work relative to the miracles performed by Prince Hohenlohe. Her highness the Princess Matilda Von Schwartzenberg, of Wurzburg, was among the cures. She had been lame from her 8th to her 17th year, and had vainly expended on medical aid 50,000 florins, but was cured by the Prince's intercession. He inferred, that the Wurzburg doctors who got 80,000 florins had had a very fine time of it, and that the name of Prince Hohenlohe could not be very popular among them (continued laughter). But at Bamberg the Prince's success was yet more miraculous. Four sisters, who had all been confined with lameness for ten years, were cured (a laugh). Councillor Jacob, a councillor of state, who had not stirred out of his chamber for some years, suddenly accompanied his doctor from the third story to the street door (a laugh). A beneficed clergyman was cured of the gout while passing through the streets of Bamberg, without ever getting out of his carriage (a laugh); and besides these famed persons, an upholsterer, a saddler, and a stonemason, had been all operated on by similar miracles (a laugh). Honourable gentlemen might laugh, if they pleased, at so much credulity; but they should know, that in no part of the world were the wonder-workings of Prince Hohenlohe talked of with more profound respect and faith than in Ireland (hear, hear). The rt. hon. gent. next read from a book, signed J. K. L., but said to be written by Dr. Doyle, a communication (*The Encyclical Letter*) to the whole Roman Catholic communion of Ireland, of the rescript of Leo XII., the present Pope, addressed to the Bishops, &c. complaining of the mischief effected by Bible Societies; and containing the passage—"The power of temporal princes will, we trust in the Lord, come to your assistance (hear, hear), whose interests, as experience shows, are always concerned when yours are in danger; for it never hath happened that the things which are Cæsar's are given unto Cæsar, if the things which are God's be not given unto God." If any thing were wanting to convince him of the necessity of retaining the oath of supremacy in this country, he should find it in the admission of such letters as these. The concessions proposed to be made would not allay the animosities of the Irish, or satisfy their demands; as indeed Dr. Doyle himself seemed to think when he talked of the "ulterior measures" that would be necessary after Catholic Emancipation. He assured the house that he had no personal interest against the Catholics, but was convinced that the welfare of the country demanded his opposition. He thought it would be just that every thing in the nature of a penal law should be repealed. The Roman Catholics ought to have every fair protection, to enjoy every liberty, and be allowed the possession of property, and ought to enjoy in every respect the same privileges as other subjects. He was as anxious as any one to quiet all feelings of irritation, and

to put an end to these dissensions. But he was convinced, for the reasons he had stated, that the concessions which were sought were utterly incompatible with the welfare of the kingdom (cheers).

Mr. Brougham could not allow the speech of the rt. hon. gent. nor the new topics which had been introduced in it, to pass unnoticed, notwithstanding the late hour of the night. The arguments which those who supported the motion had urged, remained untouched by any thing the rt. hon. gent. had said. The speech of the rt. hon. Sec. for Foreign Affairs remained unanswered, as he believed it was unanswerable (hear, hear). When the rt. hon. gent. supposed that the hon. bart. in alluding to the treaty of Limerick, meant to rest upon it the strongest part of the case, he was mistaken. The hon. bart. only touched upon it because it was in the petition, and without laying any greater stress upon it than it deserved. But no one could deny that in all the stages of the question it formed a very important feature. It was now 130 years since that treaty was made. It had been violated; by whom he cared not; but the wrong done by that violation was perpetuated by the Parliament of the present day, if they refused to fulfil it. One clause in the treaty promised, in express terms, that the Catholics should enjoy the same privileges they had been in possession of in the reign of Charles II. In that reign they possessed the privilege of being eligible to Parliament. They had access to all the offices of the state, and from these they were now wholly shut out. There was a passage in Mr. Burke's posthumous works, in which reference was made: to this treaty, and to the injustice which the Catholics suffered from its not having been carried into effect; the consequence of which was, that they were precluded from their natural rights, and from the benefits of society. That brought him to the second head of the rt. hon. gent.'s arguments, and he contended that natural rights stood on the same footing as civil rights. To have the privilege of being elected, as well as that of electing, was the right of every man who was capable of exercising it; and to say that a man who was in every way fit to serve the state, who was, in point of wealth, abilities, acquired knowledge, and all necessary requisites, most competent to discharge the duties of the station he was to fill—to say that such a man should not be elected because he conscientiously believed in the worship of the mass, and in the doctrine of transubstantiation, was a wrong, and a deprivation not to be justified. It was true that private rights were every day sacrificed when the interests of the community demanded it: but, as in bills for railroads and canals, the necessity of the sacrifice was always first made apparent. There was no such necessity in the case of Catholic exclusion, and what folly was it at this time of day to tell us that it was only from political rights the Catholics were excluded—to say that the Catholics of the present day were not, like their ancestors, ousted of their property, because they worshipped God according to the dictates of their consciences—to tell them that they were no longer the hewers of wood and the drawers of water to their Protestant brethren—that they were privileged to eat and drink, and be clothed—that they were no longer persecuted and tortured for their religion's sake—and that all the disabilities they lay under were such as they might therefore en-

sure without repining? Were they not shut out from all that dignified and exalted the character of men in society? Was not a broad distinction drawn between them and us, which made their lot as degrading as ours was splendid? Were not the portals of the temple of honour shut against them? Were not the entrances to the legislature barred? Had they any voice in making the laws which they were compelled to obey, or in the imposition of the taxes which were levied upon them? Were they not deprived of all share in the civil government of the state, and did they not endure all this because they dared to be honest and to worship God according to the religion of their ancestors and the religion of their own hearts? What worse than folly was it, then, to say that these were only political disabilities—that this privation of all the civil rights best worth enjoying could be justified? The concessions which had already been made, were, in a great degree, illusory. Did they think they gave men the right to elect, and to send members to Parliament for the purpose of representing their opinions, and advocating their interests, if they told them at the same time, "You have full power to choose whom you please, excepting those whom, of all others, you wish to choose?" The only value of the elective franchise was, that it enabled men to send to Parliament persons who agreed with them in political sentiments. He would suppose, for example, that the Tories, having the right to impose such terms on the Whigs, should say to them, "We look upon you all as damnable heretics; you profess political opinions which have kept you out of power for 60 years, as we Tories were kept out of power for 60 years before, in consequence of the opinions we entertain. We consider, that of all heresies yours is the most detestable; you believe, that all power is held in trust for the people; and he who thinks this is 'fit for treasons, stratagems, and spoils—let no such man be trusted.' If the benches on that side of this house should be filled with Whigs like you, no one could tell what might be the consequence. But we mean to confer upon you the elective right: you shall send whom you please to Parliament, but you shall select them from the body of the Tories." The members of the Universities of Cambridge and Oxford would little like the application of this principle to themselves. They would feel it something like injustice to be told, "You may elect whom you will, excepting persons of your own body. They are all a set of men whose minds are narrowed by prejudice, and darkened by learned ignorance. They are persons to whom history is merely an almanack, and experience a swindler—to whom knowledge is pedantry, and caution dottage. They shall not be allowed to take their places here, because they will oppose every thing which tends to the improvement of mankind, and to the diffusion of wise and liberal principles. You may choose any body else you like, but we will have none from Cambridge or Oxford. Go to the University of St. Andrew's and Aberdeen, where there are many able, liberal, and enlightened men. None of the prejudices which grow so luxuriantly on the banks of Granta or Isis can have extended their influence to them: they will not endeavour upon all occasions to prevent the march of improvement, and the progress of the human mind (hear, hear)." He did not think the members of Cambridge or Oxford would thank the house

for such an elective franchise. The Catholics scarcely did so when they obtained it, although as it was the first, it was a very important concession to them. When Lord Buckinghamshire (then Major Hobart), in the year 1793, brought in and carried a bill, which had been rejected in 1790, and which was only granted at last—as the history of Ireland would show every thing had been granted—because the Government was in some difficulty, he was asked whether he was instructed to say that the Catholics would be satisfied with having the elective franchise granted to them? His answer was, that they could not be satisfied. But leaving the history and the natural justice of the question, he came to the expediency of emancipating the Catholics from the disabilities they had so long suffered under. There was a great fallacy in the argument of the *rt. hon. gent.* As combatants were apt to do—he looked only on the side on which he fought, and forgot that the same complaint which he made of the vexation on one side, applied to the other. For example, much stress was laid upon the danger which must arise to the Protestant establishment, owing to the great disproportion of the numbers of the Catholics. This was exactly what he (*Mr. B.*) said. He saw that they were surrounded by peril, and he wished them to find their way out. The *rt. hon. gent.* saw it too, but he said, “Let us do nothing, and wait the event.” But the *rt. hon. gent.* said, have not the Catholics power now? They had not that power to which they were entitled, and of which he believed they neither would nor could make any improper use. If they were admitted to that house, the stigma which rested upon them would be removed, and a general conciliation would be effected. His belief was, that if as many Catholics as could be supposed should be returned to Parliament, thirty or forty for example, not one proposition against the Church would proceed from them. The Dissenters, of whom there were as many in number out of doors as of the Established Church, had only four or five of their body in the house, and from them no proposals had ever been made of a nature hostile to the church establishment. He was not a little surprised to hear the statement which the *rt. hon. gent.* had made respecting the supposed effect which the miracle of Prince Hohenlohe had produced. If he had wanted an antidote to the alarm which the *rt. hon. gent.* had attempted to excite, he should have thought he had found it in the pamphlet which the *rt. hon. gent.* had so gravely read to the house. Would any body believe that an assembly of educated men, with all their Protestant prejudices in their bosoms, could be influenced by such trumpety fanaticism? Could it be supposed that the admission of a few lords into one house, and of commoners into the other, would have the effect of overthrowing Dr. Middleton's Free Inquiry, and induce a belief in the stories of the cures performed on a saddler, on a prioress, and on a gouty old man? If this pamphlet were the most reductive of all the legends that the Church of Rome ever vomited forth—and he could assure the *rt. hon. gent.* that there were many most ingenious productions—he would pick out three of the weakest men in the house—he meant on his side of the house—where the men must, of necessity, be weak, since, although they had no test act applied to them, they had kept out of office for sixty years; to those three he would add six others from out of the house, all of whom should pore over it

for a whole calendar month, and they should not only be neither converted nor perverted, but confirmed in their faith by the perusal. The *rt. hon. gent.* had read, too, with a triumphant air, a declaration of Pope Leo XII., in which he expressed his expectations that Bible Societies would be put down by Geo. IV. and other temporal princes. But the Pope was not alone in his wish to prevent the dissemination of the Bible without note or comment. The same sentiments were avowed by the heads of the Universities; and he had read a clever but injudicious pamphlet by the Archbishop of Canterbury's chaplain, in which this Romish doctrine was laboriously enforced. Were there no Dissenters in that house who held offices? In certain cases were not the ordinary tests dispensed with by law? Had this country never seen a Lord Chancellor, with the patronage of the Church in his hand; professing the doctrines of a Presbyterian? Had this country never seen a state minister who was imbued with the heresy of Socinus, as the established Church called it? All these they might have had in office, some of them they certainly had, wielding all the power of the State, directing the monarch in all his measures; and had any danger, during those periods, menaced the safety of the Church? Had his hon. friend near him (*Mr. W. Smith*), ever made any attempt to undermine the interests of the Established Church? Had any Dissenter who had ever entered that house, made such an effort? No. Years had revolved—very nearly a century had passed by since that body were permitted to enjoy those privileges which the Catholics now called for—and no such attempt had they made during that period. And yet they were now told—ay, gravely told—that right, and justice, and expedience, must, in the case of the Roman Catholics, be thrown aside, because, if they were restored to their privileges as freemen, the Church would be in danger (hear, hear). But had the Catholics no power at this moment? He entreated the house to consider the subject in that point of view. They had power as great, in degree, as if they were admitted into Parliament; but of a much worse quality. It was, at present, a dangerous—it might become a mischievous, a fatal power. Let the legislature, then, convert it into a regular, constitutional, proper power; and there was an end of the danger. He would name no man; but this he would say, that greater natural abilities, more acquired talents, finer skill, and, what he would very much dread to encounter in an opponent, nicer discretion, he never saw displayed, in a more extensive degree, than by those who now conducted the affairs of the Roman Catholics (hear, hear). He spoke not merely from public report; but also from private knowledge. Men so accomplished—so richly endowed by nature—so much improved by study—backed by their countrymen, he cared not whether six, or five, or four millions—such men, it must be admitted, possessed power. That which he had described was power, or he knew not what power was. The power which those persons wielded was dreaded by the Government. Why did he assert that it was dreaded? Because, to control that power the government broke through the principles of the constitution, and enacted mischievous and revolting laws. His passion was—“Give to those people their birth-right: you thus take that power from them. Let the six millions be sixty millions; if



they have no grievance, you have no cause of fear. Act thus, and all this national talent—all this acquired ability—all this practised skill—all this nicely-balanced discretion, will be exerted for your service—will no longer be wielded against you" (hear, hear). The elements of strife and confusion were abused. The energies which often accompanied political disappointment, the fire which always attended religious zeal, and the discontent which a refusal of justice must ever engender, might when combined, produce the most fearful effects. His remedy was plain and rational—"Take all those elements into your own hands—work them properly—control them, not by coercion but by kindness—attract them to you by benefits, instead of repelling them by injuries; and no longer will you lie down under the apprehension of nightly insurrection" (hear, hear). The *rt. hon. gent.* said, even if he were a friend to this measure, he would not be frightened into it. This was the worst of all possible arguments. Why should any man say, "I will abstain from doing right, because it is boldly demanded?" It was degrading for a man, through fear, to submit to do that which he ought not to do; and was it not equally degrading, from a principle of obstinacy, to refuse to do that which he ought to do? He would put this argument of not being threatened into compliance, to those who were well-wishers to the measure. If they adopted the argument, they would in effect say, "I wish to carry the measure; but, alas! you frighten me!" It was declaring, "We wish for the measure, and the legislature is bound to listen to the proposition; but the present is a time of danger, and we will not concede this measure on compulsion." This, however, was a fallacy. No government, no legislature, need fear the attack of factious men, if justice were done to the community. But that which was really formidable, that which the legislature ought to listen to, was the fear of doing wrong and injustice. Such acts were criminal in themselves—such acts were formidable, for they tended to produce discontent, with all its train of evils. The Catholics were now asking for that which was reasonable; but, said the *rt. hon. gent.*, "If we grant this, they will ask for something that is unreasonable;"—then, he would say, wait till they make the demand, and then refuse them; but do not reject a reasonable suit, from the fear that an unreasonable one, which might be rejected, should follow. He was astonished when he heard the *rt. hon. gent.* state that no mention was made of securities. He had distinctly heard his hon. friend say, that he would vote for no bill unless it was stated in the preamble that the Protestant Church, as it now existed, in Ireland as in England, should be inviolably preserved. He understood him to say, that securities were to be introduced substantially the same as those which were contained in the former bill, and that a new one, and he conceived the best, would be added—namely, provision for the whole of the Catholic clergy. The course which he now advocated, he had suggested long before the Catholic Association was in being. If that course were pursued, he was sure the Roman Catholics would be satisfied, and that Ireland would be placed in a state of safety. What might happen if this proposition were not agreed to, he could not say. But well he knew what dire effects were produced when those who had the power of conciliation in their

hands, permitted eternally in perpetrating wrong, instead of doing justice. And he thought that if the measure now proposed were not carried, the peace of Ireland would be placed in jeopardy. He earnestly and solemnly entreated the house to take that opportunity, while a measure of a different description was pending in another place, to adopt a line of policy which would improve the state of Ireland—would reconcile the Catholic and Protestant body, and would put an end to all those factions and dissensions which had so long distracted that country (hear, hear).

Sir C. Fortescue opposed the motion, on the ground that the Catholic Association threatened that if Emancipation were not granted voluntarily, they would compel the house to concede that measure.

Sir F. Burdett having briefly replied, the house divided, when the numbers were—

For the motion, 247—Against it, 234—Majority, 13.

TUESDAY, MARCH 15.—Lord Palmerston presented a petition from the Chancellor, Masters, and Scholars of the University of Cambridge, against the concession of any further claims to the Catholics. The petitioners declared, that though their apprehensions on this subject had been often previously stated to the house, they had recently been much strengthened by the violent language used by the Catholics in this country. The petitioners discovered, both in that language and in the language used by the Catholics elsewhere, proofs of their entertaining principles hostile to religious liberty. They were convinced that if the concessions which the Catholics now asked were granted, they would lead to fresh demands. They also thought that the measures which they sought to carry could only be devised with the intention of producing a great change in the Church Establishment of England. They therefore prayed the house not to entertain the question, and more especially not to entertain that part of it which went to admit Roman Catholics into the great council of the nation. The noble lord, without any further observation, moved that the petition be brought up.

Mr. W. J. Banks rose to say a few words in support of this petition. He would mention a fact connected with it, which might, perhaps, give it a stronger recommendation to the notice of gentlemen on the opposite benches, than it would otherwise possess. Those who were at all acquainted with the institutions of our Universities, were aware that it was seldom that a layman filled the office of Vice-Chancellor. A layman, however, Mr. Le Blanc, now filled it, and fully concurred in the prayer of the petition. It was consequently a petition which expressed the sentiments, not merely of the clerical, but also of the lay members of the University, and therefore might be received without exciting the sneers and tauntings which had been excited by some petitions on the same subject, for no other cause that he could learn, except that they came from clergymen. He protested against the scoffs which were cast upon the petitions of the clergy; considering their education, their rank in life, and their importance in the country, they were entitled at any rate to attention and respect. If a word were said against the army, the navy, the law, or the commerce of the country, there would be members belonging to those different occupations ready enough to

start up, and retort with interest the sarcasm on the offender. The clergyman, however, was obliged to silence, and could not defend himself by the eloquence of any of his brethren. They were the only class of men not represented in that house: they ought, therefore, to be defended by the generosity of the house against sneers and sarcasms, which, if they meant any thing, could only mean that they ought not to come there as petitioners. He contrasted the different modes in which the petitions of the Catholic clergy and those of the Established Church were received by the house. The former were heard with kindness and attention, and were made the subject of lofty encomiums; the latter were flouted and discountenanced, and all but laughed out of the house. He thought that hon. gentlemen would perform their duty in a more fair and candid manner, by listening to the arguments which the clergy urged against these claims, than by denouncing them, without examination, as absurd and ridiculous, and by assailing them with laughter as soon as they were brought into the house.

Mr. Hume protested against the language of the hon. member who had just sat down, as utterly uncalled for by any thing which had occurred in that house. It would be preposterous indeed for men who professed liberal principles, to adopt such an illiberal mode of proceeding (hear, hear). The hon. gentleman had raised a phantom, which had no existence but in his own mind, for the sole purpose of demolishing it after it had been raised. What he (Mr. Hume) had said regarding the clergy on a former night, he was ready to say again. He had expressed his regret that the clergymen of England, who were so superior to the generality of the people, in education and rank in life, should be a century behind them in mildness and liberality of feeling. With Christian charity always in their mouths, they ought to exhibit a little more of Christian charity in their practice. Enjoying civil rights themselves, they ought not to seek to debar others from full participation in them. If there were any difference in the attention which the house bestowed on the petitions received from the Catholics and the established clergy, it was owing to this circumstance—that the former petitioned for justice, whilst the latter sought to perpetuate injustice (hear, hear).

Sir Etiah Harvey begged to observe, in corroboration of what had just fallen from the hon. member for the University of Cambridge, that when he presented the petition from the Archdeaconry of Essex, which did equal honour to the hearts and heads of those who signed it, it was received with an uproar and clamour which was more worthy of a bear-garden than of the House of Commons (hear, hear).

Mr. Spring Rice allowed that the petition was entitled to every attention; but at the same time, it ought not to be taken as conveying the unanimous opinion of the University. There were a great many of the resident members who dissented from its prayer; and among them some of the most enlightened and popular members of the Senate.

The petition was then laid on the table.

THURSDAY, MARCH 17.—Mr. Peel presented a petition from the University of Oxford, praying that those laws might not be repealed which excluded Catholics from certain offices of the State, and from sitting in Parliament.

WEDNESDAY, MARCH 23.—Sir F. Burdett brought up a bill to provide for the removal of the disqualifications which at present affected his Majesty's Roman Catholic subjects.

On the motion that it be read a first time,

Sir T. Lethbridge said, that he rose to enter his protest against it. He not only intended to object to the details of the measure, but also to the principle upon which it was founded. He could not allow one single stage of it to pass by him without expressing his decided opposition. Of the bill itself, he knew nothing, but at any rate, it went to alter the test acts, and so far to change the ancient constitution of the country. If this bill repealed the oaths of supremacy and abjuration, so as to render them palatable to the Roman Catholics, it must be pretty nearly the same bill which had before undergone the consideration of Parliament (hear, hear). If that were the case, though novelty could not be urged against it, the same objections which had formerly been urged, might be repeated with all the confirmation which they had received from recent transactions. He allowed that on the last debate he had heard fascinating arguments advanced by the advocates of concession. Still he had not heard sufficient to satisfy him that more could be granted to the Roman Catholics, without danger to the constitution of these realms as by law established. He had not heard several very essential points of the Popish creed properly explained; and till that was done, he could never consent to give those who professed it, any thing like unqualified emancipation. They were told, however, that they had nothing to do with the religious tenets of the Popish creed, and that they ought only to look at the political bearings of this important question. This he denied, even at the risk of being denominated a fanatic or a bigot. He knew that a great endeavour had been recently made to throw new lights upon this subject. He regretted, however, that they had not been brought into such a focus that any member of the house might seize them in his grasp and make himself master of them. He did not know whether it was orderly for him to refer to what had passed in the committee then sitting above stairs; but he had been informed by hon. members who had paid great attention to what had taken place there, that several witnesses had made depositions of a very extraordinary nature. Four bishops, as they were called, of the Catholic church, men of great learning, piety, and unblemished character—had given evidence before the committee up stairs, which was at variance with all the notions which had been usually entertained regarding Catholicism. It might be that the Roman Catholic church had recently adopted new doctrines, and if so, much of his former objections might possibly be removed. He did not, however, expect to have that point admitted; and till it was admitted, he must continue to press his former objections.

Mr. Peel said that though he did not intend to take the sense of the house at present, he wished it to be distinctly understood that his opinions on this question were entirely unchanged—that he was not inclined to enter into any compromise with the Catholic body—that he should give to this bill the same determined opposition which he had given to every bill with the same object which had preceded it—and that he should certainly take the sense of the house on the second reading (hear, hear).

He hoped that even those gentlemen who differed from him as to the principle of this measure would, if they succeeded in carrying it through its next stage, pay great attention to the details of it when it reached the committee; more especially since it had transpired, that the person who prepared the draught of the bill was Mr. O'Connell, the leader of the Association which the house had deemed it prudent to suppress.

Mr. Tierney, as one of the committee which had been appointed to draw up this bill, begged leave to say that he never knew of any such thing (hear). Ever since the Catholic deputation had been in England, he had not had one minute's political conversation with Mr. O'Connell: on the contrary, he had carefully avoided it. He had himself assisted in drawing up this bill, and did not know, nor did he believe, that Mr. O'Connell had any share of it. Some gentlemen of the committee might have consulted Mr. O'Connell on the subject of this bill: and he, in return, might have communicated to them his sentiments in writing. Those sentiments Mr. O'Connell might have considered as the foundation of the bill, and so it might have got abroad that he had drawn it up.

The bill was then read a first time with only three dissentient voices.

**LORDS, FRIDAY, MARCH 25.**—The Bishop of Bath and Wells, on presenting a petition of the Archdeacon and Clergy of Taunton, in the diocese of Bath and Wells, thought it right to trouble their lordships with a few observations. It had been asked whether it was consistent with that charity which distinguished the Christian religion, for the clergy to come forward with petitions against the proposed measure in favour of the Catholics. Many aspersions had in this way been cast on the clergy, but he thought that the petitioners acted up to the true spirit and letter of Christian charity, when they came forward and endeavoured to maintain pure religion—when they endeavoured to support Protestantism and the principles of civil and religious liberty against Popish domination. He trusted their lordships would always maintain the Protestant Church Establishment in this country; and concluded by moving that the petition be read.

The Earl of Darley contended that no aspersions had been cast on the clergy. If those reverend persons conceived that they were upholding the church to which they belonged by the petitions which had been presented, it was their right and duty to address them to that house. At the same time he could not help alluding to a petition from the clergy of Ely, which he could not regard as remarkable for its charitable sentiments. He thought the right reverend prelates ought to consider it their duty to admonish their brethren against coming forward with petitions of this kind. The reverend persons who signed this petition, cherished all that exclusive spirit of domination, and all that hostility to other sects, for which they blamed the church of Rome. They censured the Catholic clergy of Ireland—men who performed their duty in a way which it would be well for the petitioners to imitate. The reverend persons were not content with the state of the law as it now stood, but wished their lordships to retrace their steps, and again impose those restrictions from which the Catholics had been relieved.

Lord King finding it asserted in the petition

from Ely, that the church of Rome enjoined the prostration of the will and understanding of the people to the clergy, at first wondered from whom the reverend petitioners had stolen this fine phrase; but, in fact, it was taken from a charge of the Bishop of London. In another part of the petition, certain members of the Roman Catholic Church were styled "factious demagogues." Now this sort of vague charge was one which might be applied any where. It might just as well have been applied to the members of this house. A great many petitions had been presented from the clergy, which had better have been deposited with the chronicles of the church, and there left to rot. At present they came forward like an old medicine of the shops called *album græcum* which might be found about the corners of cathedrals. This medicine was once in high repute, like "No Popery," which was now rejected by the stomachs of the public, as much as *album græcum* would be if it were administered.

Lord Calthorpe acknowledged that sentiments appeared in some of the petitions which were not consistent with humanity and justice.

The Bishop of Chester presented a petition from the Dean and Chapter of Chester, against the Catholic claims. Before the petition was read, he would make a few observations on the comments which had been thrown out on the petitions presented from the clergy to their lordships. A few rash words which found their way into those petitions, were no more calculated to afford a just idea of the character of the clergy, than words occasionally employed in their lordships' house were fit to be quoted as expressing the opinions and feelings of that assembly. He should be very far from judging of the character of their lordships' house by the speeches of some of its members, who might choose to draw metaphors from a dog-kennel. Noble lords had charged the clergy with intolerance; but he distinctly charged those noble lords with greater intolerance. They pretended not to oppose the presenting of petitions from the clergy; but nothing was better calculated to exclude them, than attacking the petitions one by one, and picking out any objectionable expressions which might appear in them. Reproaches had been thrown out against the Bishop of London for having employed that expression which had been so particularly applied in the petition. This was not the first time that the charge of the right rev. prelate had been misrepresented. That right rev. prelate recommended to all Christians, the prostration of the will and understanding before the precepts of the Gospel; but he did not recommend them, as the Roman Catholic priests did, to prostrate the will and understanding to a temporal authority, falsely presumed to be infallible. He did not know in what school the noble lord had studied his political tactics, but he would tell him that venting sarcasms against the clergy was an artifice to which the enemies of pure religion—amongst whom he did not mean to class the noble lord—had recourse in every age of Christ's church. He was satisfied that these sarcasms would not be attended with any success in that house; but it was impossible to hear them repeated night after night, and remain silent. If these personal attacks upon the bishops were parliamentary, it was time that the rules of Parliament should be changed; but if they were not parliamentary, then he

called on the house to protect them from such missiles by the shield of its authority. They held their seats in that house by a tenure which was both legally and morally not less strong than that by which the noble lords opposite held theirs; and they belonged to a body of men whom their lordships would find out one day, as their ancestors had found before them, that they ought to treat with respect, and not with contumely (hear, hear). He moved that the petition do lie on the table.

Lord King said, that the reverend prelate had insinuated that he (Lord King) was not a friend to the Church of England. He was not a friend to the Church of England whilst it encouraged intolerance, pluralities, and non-residence, and all the other abuses which at present existed in it. Out of eleven thousand parishes in England upwards of seven thousand were held by non-residents, and only somewhat under four thousand by resident clergymen. He wished that those champions who stood up for the almost apostolic purity of the Church—

The Duke of Newcastle rose to order. He was not aware that there was any question before the house regarding the purity of the Church.

Lord Holland agreed with the noble duke that this discussion was not regular. He deprecated the idea that the introduction of this measure was to be considered as an attack upon the Church of England, on the one side; whilst he wished it to be understood, that the noble lords who opposed it on the other side, were not insisting on the merits of the Church of England, but were advocating the continuance of a monopoly of power—he did not use the phrase in an invidious sense—to themselves.

The Earl of Liverpool reminded the house that this discussion had arisen from the unusual course adopted by noble lords of entering upon a debate on the particular terms in which a petition was drawn up. He was far from saying that if a petition were presented to their lordships couched in indecent language, he would not object to its being laid upon the table; but he contended, that if the terms of every petition were to be discussed in this manner, it would be extremely detrimental to the right of petitioning.

The Lord Chancellor begged to enter his protest against the practice of making observations of this nature on petitions presented by the clergy, who had a right, as men, under the constitution of this country, to petition their lordships on the subject of any measure before them. They ought to be, of course, couched in decent language; but if their lordships were to observe upon every term contained in each petition, they would be subjecting them to a trial which, not even their own debates, if dealt with in the same way, could bear; he had reason to complain of communications having been made, in which he was said to have changed his opinion upon this question. He, therefore, took this opportunity of saying, that so far from having changed his sentiments upon the subject, every successive event—all the circumstances that were taking place around him—served to confirm him in the persuasion, that every man who wished to support the constitution in church and state, would go along with him in opposing the measure.

The petition was laid on the table.

MONDAY, MARCH 22.—The Bishop of Gloucester presented a petition from the clergy of the diocese of Gloucester, against the Catholic claims.

Lord King said this was another of those petitions in which the clergy took upon themselves to give advice in a matter of a purely political nature. He had been accused the other day of being out of order in commenting on a petition of this sort. Now, if the clergy chose to come forward and give their advice against granting the Catholic claims, he did not see how he was out of order in giving his advice against their petitions. Their forwardness on this occasion reminded him of a story he had heard. A French ambassador at the court of Madrid asked the Spanish minister, why his Catholic majesty was so fond of taking the advice of his confessor. The Spanish minister replied, "Surely your master does the same." "Yes," replied the French ambassador, "he does, and for that very reason our affairs are so badly managed." Whether the clergy were Catholics, Mahometans, or of any other religion, they had all the same propensity to give advice, and their advice, if followed, always produced the same mischievous result.

COMMONS, MONDAY, MARCH 22.—Mr. Spring Rice rose to present a petition from a number of gentlemen of consideration in Ireland, in favour of the Catholic claims. Many of these gentlemen, among whom there were six magistrates, and the owners of landed property to the amount of 300,000*l.* a year, had been formerly hostile to these claims. They now came forward to declare, that they thought the concession of the Catholic claims essential to the tranquillity and security of the empire. The petitioners added, that the concession of this measure would give them still greater satisfaction were it connected with two others—namely, an alteration of the existing rights of the 40*s.* freeholders, and a state provision for the Catholic clergy. He concurred with the petitioners in these opinions, and thought there never was a time at which this measure could be accomplished with more grace by the government, considering that they had lately passed a law against the Catholic Association. If he thought that any alteration in the constitution of the 40*s.* freeholders would be a violation of popular rights, he would be the last man to advocate such a step; but believing, on the contrary, that the suggested alteration would be a wise and salutary reform in the existing system, it should have his support (hear, hear).

Mr. M. A. Taylor begged to enter his protest against the alteration in the elective franchise, and the public provision for the clergy. If funds could be found for such a purpose in Ireland, let the clergy be paid out of them; but he should resist their payment in the manner proposed. He had opposed the plans of the new churches, because the people were refused the appointment of the clergymen. With respect to the alteration in the elective franchise, he, who had been a member of the society of the "friends of the people" (a laugh), and had always contended for the extension of popular suffrage, could not now acquiesce in its contraction.

Sir J. Newport was convinced that a measure like that proposed for reducing the fallacious votes of 40*s.* freeholders, in Ireland, would greatly tend to smoothen the progress of the bill. He was the last man to wish to de-

give even the lowest member of the community of any wholesome rights or privileges. But knowing the state of Ireland better than it could be known by the hon. member for Durham, he would venture to say, that it would do much in allaying the apprehension of danger as to the result of granting Emancipation. The hon. member might be alarmed at paying 300,000*l.* or 300,000*l.* a year to priests: would he prefer paying 3,000,000*l.* for soldiers to keep the country quiet (hear, hear)? These were not sufficient objections for delaying the ultimate decision of a question upon which depended the power of the British government to keep in peace and order a whole people, at present discontented, and paralysed in their powers to contribute to the general welfare of the state. As to the question of the elective franchise, whenever it should come before the house, he would prove, to the satisfaction of the most incredulous, that the people called upon to exercise this right, were not, as might be supposed, required to exercise it as free agents—they were dragged to the hustings to give their votes under arbitrary dictation, and not according to their own wishes. The franchise was not an advantage to them, but a serious evil.

Lord J. Russell thought that any abuses with respect to the exercise of the elective franchise, ought to be inquired into and ascertained by a committee, before the house proceeded to any alteration of the franchise. He approved of the provision for the clergy; but if he had even objected to these two proposed appendages of the bill, yet he would support them as conditions for securing Emancipation.

Sir P. Bury undoubtedly concurred in the sentiment of the noble lord, that if any considerable support could be acquired for his bill by admitting the two appendages proposed, he must concede them for the sake of that which he deemed of the first importance—Catholic Emancipation. But he thought that he ought to demand the clearest testimony before making those concessions: otherwise he might lose on one hand what his ill-timed complaisance might acquire for him on the other. As to the stipend to the Catholic clergy, in the view of economy, the money required for that object would be so trifling, that it would not balance the weight of a straw in the conclusions of any rational mind one way or the other. But, at all events, he was not implicated in the fate of these propositions. Catholic Emancipation was the sole measure for which he was pledged; nor would he consent to mingle less significant details with that question.

Mr. Peel would not accept of the two measures now proposed as a compromise of his opposition to the bill. Neither the payment of the Catholic clergy by the government, nor the disfranchisement of the forty-shilling freeholders, would induce him to relax in his hostility to the bill.

Mr. Tierney was hostile to the two propositions, yet if it could be proved that they were likely to become means of conciliation, he would not object to their adoption.

Mr. Brougham, from an extensive correspondence with those who had lived in constant hostility to Emancipation, was enabled to say, that in the event of that question being carried, it would materially lessen the general alarm, if it were to be accompanied with a pro-

vision for the Catholic clergy and a qualification of the franchise. Whether the Catholic question were carried or not, it was nothing more than a becoming measure to provide for the Catholic clergy, who, in the performance of the most arduous duties, might be said almost without a figure, to be left to beg their bread. As to the question of elective franchise, it was misnamed a franchise when applied to forty-shilling freeholders—they were not freeholders—they had no free choice. A Catholic bishop had declared, that he had seen men with the appearance of mendicants going to register their votes, though there was nothing like a qualification in their leases. They were compelled to go, or they must look for the severest consequences.

**LORDS, WEDNESDAY, APRIL 13.**—The Bishop of Exeter said, he had several petitions to present against the Catholic claims, which were not from the clergy, but were signed by Dissenters of every denomination. The first was from the churchwarden and inhabitants of the parish of Kenton, in the county of Devon; the second, from the churchwarden and inhabitants of St. Lawrence, Exeter; and the third from the inhabitants of North Bishop, Devon; all praying that no further concessions might be granted to the Catholics. The fourth petition he had to present was the only one concerning which he expected to hear a dissentient voice, as it was from that proscribed body, the clergy. In common, however, with all his Majesty's subjects, they had a right to petition. They came before their lordships, not to offer advice; and it was one of the most essential privileges of the people of this country that the doors of parliament should be open to their petitions. The petition he had to present was from the Archdeacon and Clergy of Totness, Devon. The petition had been agreed to by all the clergy of the archdeaconry, regularly assembled, with only one dissentient voice.—The petition was then read.

Lord Holland held in his hand a petition from the Rev. John White Jones, a humble curate in the diocese of the rt. rev. prelate, who had dissented from the opinion of the meeting at which the petition from Totness had been signed. A rt. rev. prelate had described the petitioners as the proscribed clergymen of the Church of England. He did not know in what sense the rt. rev. prelate meant that phrase to be understood; but the petition he (Lord H.) had the honour to present, came from a clergyman, who might justly be called proscribed. He was curate of North Bovey, in Devonshire. His petition was the more deserving the attention of their lordships, as, in consequence of having formerly shown his zeal on the same question, he had found himself precluded from obtaining promotion in his profession; his diocesan, the rt. rev. lord's predecessor, having refused to grant him the necessary testimonials. That rt. rev. prelate had since been promoted to a higher and more lucrative diocese, but the humble curate of North Bovey remained where he was. At the meeting where the last petition was agreed to, he attended, and protested against the decision of the majority. With regard to petitioning, he (Lord H.) could not subscribe to the opinion of a learned lord (the Lord Chancellor), that it was not proper to notice the language in which such petitions might be

framed, but thought they were the more called upon to scrutinize the language when the petitions came from an educated class of persons. Many of these petitions had been remarkable, not only for interperence of language, but for containing all sorts of fallacies, and were calculated to impress upon the public notions respecting the proposed concessions to the Roman Catholics, which were quite the reverse of the fact. The petition was then read.

MONDAY, APRIL 18.—A great number of petitions against the Catholic claims were presented, amongst which were several from the clergy.

Lord *Calthorpe* regretted the pains taken by the clergy to bring forward petitions on this subject. Notwithstanding the number of petitions which had been presented, he was persuaded that what was called public opinion in this country, instead of being against, was in favour of the Catholic claims. They had received no petition from bodies of persons whose opinion ought to have great weight on such a question as this. Had they received any from grand juries; from county meetings; from any considerable meeting of manufacturers or commercial men—in short, from any description of persons, except the clergy? He was extremely sorry to find that on this question the clergy of the Established Church stood insulated and detached from the feelings of the other well-educated parts of the community.

COMMONS, MONDAY, APRIL 18.—Numerous petitions were presented against the Catholic claims, of which a considerable proportion were from various dissenting congregations.

Mr. *Brougham* said, he held in his hand a petition from certain inhabitants of Great and Little Bolton, in the county of Lancaster, in favour of the bill now before the house, for relieving the Roman Catholics from the disqualifications under which they at present laboured. In presenting this petition to the house, he would take the liberty of stating the opinion which he had always held, and always should hold—namely, that all tests, and all disqualifications to hold particular offices, on account of religious belief, ought to be removed (hear, hear). He spoke not of the Roman Catholics merely (hear, hear). The pure doctrine of religious toleration ought to be extended to all sects, as well as to the Roman Catholics, because a man was no more answerable for his religious belief than he was for any peculiarity in his physical or mental constitution, over which he had no control (hear, hear). To adopt a different maxim—to inflict punishment on men because they adhered to certain religious opinions, was, in fact, to make them hypocrites; for, however interest might induce them to submit to tests and forms, their religious opinions would remain unaltered. Cherishing these sentiments, it was with feelings of sorrow and disappointment that he looked to the quarter whence some of those petitions came. That the petitions brought forward by the hon. member for Kent (Sir E. Knatchbull) should darken their doors, was not at all surprising. That petitions were signed by the archdeacons and the deacons of Canterbury—by the clergy of the Established Church—and by select vestries: this was in the natural order of things, and could surprise no man; at least no man who knew the Church. But there was a class of per-

sons whose signature he was ashamed to see affixed to petitions of a similar tendency. He alluded to that most respectable class of men, the Dissenters of this kingdom. If there were one class of men more than another bound to petition in favour of the Roman Catholics, that class was the Dissenters (hear, hear). Those persons were, he supposed, sensible that they themselves laboured under disabilities (hear, hear); and he hoped, as toleration was always on their lips, they would extend to the Catholics a small portion of that toleration which they claimed for themselves. He trusted, he said, that a little more of that discussion, which they so much admired, would have the effect of altering their opinions, ere long, with respect to the question of Catholic Emancipation; and remind them how grievously inconsistent was the conduct they pursued. Did they forget that they held only offices by connivance, because the religion which they professed was not the religion of the state (hear, hear)? Therefore it was, that an annual indemnity act was passed, in the absence of which all of them who held office were liable to penalties by law. And yet, labouring under those disabilities, they called on the Legislature to continue the disabilities of the Roman Catholics. James II. was addressed by the Quakers, on the occasion of his accession to the throne, in these terms:—"We hear that thou no more agreeest with the Established Church of this land than we do ourselves; for the which reason, we expect that thou wilt extend that toleration to us which thou thyself standest in need of." Now, he would apply to the Dissenters the words of the Quakers. Well might the Roman Catholics say, "We, like yourselves, are oppressed by disabilities; and we hope that you will bear with us, as the State bears with you—that you will allow us a little of that toleration, so great an abundance of which you enjoy, but none of which is extended to us." Some of the petitions to which he had referred came from Scotland. Presbyterianism was the chief religion of Scotland; how would his Scotch friends of that persuasion feel themselves, if the doors of all offices, great and small, were shut in their faces? They had, however, enjoyed the most considerable offices in the country, though in a manner contrary to law; but that objection was met by the indemnity act. The law, which he must call a most savage one, required that all those who accepted of situations of this nature, should receive the sacrament of the Church of England; Dissenters who abhorred that form, were required to have the sacrament administered to them; but by the indemnity act they got over that difficulty, and were enabled to hold office, without violating their feelings. This was an act which enabled the Government to procure the assistance of very able men—it was, no doubt, useful to the country, and was not, he hoped, at all disagreeable to those who took advantage of its provisions (a laugh). A little more discussion would, he trusted, place this matter in so clear a light, that they should have no more anti-Catholic petitions from the Dissenters. If it were not for the respect he bore them, he would not have trespassed so much upon the time of the house; but what he had thrown out was intended as a friendly, and he trusted it would be received as a kindly admonition, by those to whom it was addressed (hear, hear).

Mr. *Peel* wished to offer a remark or two in defence of the conduct of those whose petitions

he had presented. One of those petitions—that from Bolton—was signed by nearly 10,000 persons, comprising almost the whole of the Dissenters in that neighbourhood. He saw no inconsistency in the conduct of Protestant Dissenters, when they petitioned against granting further concessions to the Roman Catholics, because those Dissenters were protected by the annual indemnity act. That circumstance did not alter the state of the question. They felt that the doctrines maintained by the Catholic church were farther removed from their own than the doctrines maintained by the Church of England; and they had a right to petition against granting additional privileges to a body of whose intolerance all history informed them.

Mr. W. Smith expressed his belief that the great body of Dissenters were, as he was, favourable to the claims of the Catholics. He was very glad that this conversation had taken place, because it would tend to do away a very mistaken opinion which prevailed in that house, and throughout the country at large, that because an indemnity bill was annually passed, the Dissenters laboured under no disability, disqualification, or reproach. He felt that they laboured under all these. A Roman Catholic in approaching that house, or in holding office, would not have to encounter greater difficulties than were opposed to the Dissenter.

Mr. Abercrombie contended that no petitioners had ever come before the house with a worse grace, or with less consistency, than those Dissenters who petitioned against the claims of the Catholics. The Dissenters, generally, were an enlightened and liberal body, but he could not view with any feelings of respect the conduct of those who now obtruded themselves on the notice of the house for such a purpose. They were fanning the flame against the Roman Catholics, and yet at the same moment they had a bill before the house for relieving themselves from disabilities; that which they would not allow to others they claimed for themselves (hear).

Mr. Brougham said, when the Dissenters found the Church at a pinch for a cry of "No Popery," they were induced, under a delusion, to step forward at that critical juncture for the purpose of raising it. But they most egregiously deceived themselves if they thought the Church of England would, in return, do any thing for them (hear). He thought he knew the Church (a laugh)—he spoke of the High Church—and he was sure the Dissenters who came forward with these petitions knew little of that establishment if they thought that in the hour of need their conduct on this occasion would stand in their stead. The Dissenters might come to them and say, "Don't you remember on the 19th of April, 1825, when you were in the greatest distress for a 'No Popery' cry—when the Solicitor-General was in despair—when every body, even the hon. member for Somersetshire, complained of the apathy of the people—that we came forward and gave you a few drops of alarm, a few crumbs of comfort, in the shape of ominous forebodings (hear, and laughter); and will you not now assist us in getting rid of our disabilities?" How would this be received? The question would be—"What did you come forward for? Did you not come forward according to your conscientious belief that danger was to be apprehended? Were you not really alarmed? Certainly you were; and you came forward not to assist us, but to help yourselves (hear, and laughter). You have a monopoly of toleration—you have

got into a snug birth yourselves, and all you wished for was to retain it. We have become enlightened on this subject ourselves, and we think it very inconsistent for you, the Dissenters, to have acted as you did. For us it was the best thing that ever was done. You performed the work, and we despise you heartily for it (hear, hear); but, as to our assisting you, we are astonished how such an idea could ever have entered your minds" (hear, hear). He might be allowed here to observe, and it was an axiom as true as any that was to be found in the *Principia*, that the *odium theologicum* operated in an inverse ratio to the approximation of opinion amongst different Christian sects—a principle which undoubtedly applied to the Established Church. The nearer those sects approached, the more they hated each other—and, when the shade of difference was very indistinct indeed, as between a Dissenter and a Protestant, the parties hated one another to a degree of pure bitterness. In the early ages of Christianity, one little letter, one *tota*, had produced much enmity and bloodshed. The church was divided between the terms, *Ilmoouision* and *Homoloouision*, and much strife was engendered between those who defended the former word, and those who supported the latter. The distance between those parties was not, it appeared, very great, but their hatred was most persevering. Now, if the Dissenters hoped to receive any benefit by showing how near they were to the Church, they deceived themselves. The nearer they proved themselves to be, the worse would they be hated.

The petition was then ordered to be printed.

TUESDAY, APRIL 19.—Mr. W. Smith observed, that his learned friend (Mr. Brougham) was so far mistaken yesterday as to attribute to the Protestant Dissenters, generally, in consequence of some petitions having been presented from Dissenters, a strong feeling against the bill for the relief of the Roman Catholics. Now, he believed, that up to yesterday not more than nine or ten petitions from Protestant Dissenters had been presented. He had this morning looked over an alphabetical list of 2000 congregations in England; and he declared, that amongst those he could find but five or six congregations that had appeared before the house. Gentlemen might easily calculate how small a proportion this number bore to the general mass of Protestant Dissenters. He held in his hand a list, comprising the whole period from the year 1733 down to the present time, of Protestant Dissenters properly so called. These were divided into three classes—Presbyterians, Independents, and Baptists. When they agreed on any public act, that act was performed by a number deputed from the general body. In that list he found 97 congregations. He had dissected the list of petitions as well as the time would allow him, and he could discover no more than five which came from persons who could by any possibility be said to belong to the sects he had mentioned. There were a great number of persons, he doubted not, very worthy and respectable persons, who belonged to the class of Methodists, who were sometimes confounded with the Protestant Dissenters, but did not in reality belong to them. He meant to cast no reflection on those parties. He merely wished to put every gentleman who heard him on his guard, lest he should be led to suppose that,

because a dozen petitions, emanating from this heterogeneous mixture, had been presented against the Catholic claims, therefore the great body of Protestant Dissenters were opposed to them. They had, in fact, expressed no opinion. He would maintain, that not one in one hundred of the Protestant Dissenting congregations in England had given any opinion at all on this question. He believed the feeling of the Protestant Dissenters throughout the country, was, to leave the subject to be dealt with as Parliament in its wisdom should think fit. Speaking of them as a body, he believed they were perfectly desirous that justice should be done to the Roman Catholics; but they left it to the wisdom of the legislature to act as to them might appear most safe and prudent. He should be sorry if the suspicion which appeared to have entered the minds of some gentlemen near him, as to the feelings of the Protestant Dissenters, was in any degree well-founded. It would give him much pain, if the body of which he was speaking stood forward as the foes of—he would not say religious toleration, but religious liberty in its widest extent. If they came forward and called on the legislature to put its seal on this question—if they demanded that the claims of the Roman Catholics should be refused, he should be both surprised and grieved. As a body, he deemed it right to say thus much in their behalf, lest a false opinion might be entertained of the conduct of the Protestant Dissenters.

Mr. S. Rice said he held in his hand a declaration in favour of the Catholic Claims, which had emanated from a most respectable body of the Protestant Dissenters of Ireland. The Presbyterians of the north of Ireland were as ready as any set of men to admit the claims which the Roman Catholics had on the justice of that house. He said this, because an idea had gone forth, and was, indeed, embodied in the evidence given relative to the state of Ireland, that the Presbyterians of the north of Ireland had become more than ever adverse to the claims of the Roman Catholics. He had this day, in contradiction to that assertion, to lay before the house a statement (for the parties had not time to put it in the shape of a petition) from the ministers and elders of the Presbyterian profession in the county of Down and Belfast, to which they requested him to call the attention of Parliament. Those individuals said, that so far from becoming adverse to the Catholic Claims, if the Presbyterians declared themselves hostile to civil and religious liberty, they would belie the principles of the church to which they belonged. On all occasions they had declared their opinions in favour of that liberality which became them as followers of the Christian faith. In 1812, no less than 129 members of the Synod of Ulster had called on the house to do away with all civil disabilities on account of religious opinions. The individuals whose sentiments he was speaking, begged of him to state, that any person acting as moderator could express nothing more than his own opinion. If he did otherwise—if he assumed a representative capacity—he passed the line and boundary of his office, since he had a right only to act in his individual capacity. The parties stated that, as the cause of Catholic Emancipation gained ground in the north, and must continue to do so, they wished, both in justice to the Dissenters and to the Catholics, to record these their opinions. If a declaration

on the subject had been necessary, they could have procured thousands of respectable signatures to it; and they stated that they never felt greater chagrin—and the same remark would apply to the great body of Protestant Dissenters—than they did on the publication of the evidence in which the Protestant Dissenters were described as entertaining hostility against the Roman Catholics. The first name signed to this paper was that of the High Sheriff of the county of Down. Here was a Presbyterian, not acting in the spirit of monopoly, but coming forward to state his own liberal feelings, and at the same time to bear his testimony to the growing principles of liberality amongst his fellow-countrymen. This was worthy of a Presbyterian of the north; and he certainly would think ill of any of that class, who, having a monopoly of toleration, endeavoured to prevent others from enjoying those benefits which they themselves possessed.

Laid on the table.

Mr. Brougham, commenting upon the manner in which some of the petitions had been got up, and, in particular, one from Grantham, which was presented on a former evening by Sir Montague Cholmeley, asserted that two of the subscribers to this latter were convicts, and two others keepers of brothels. These two, he supposed, had observed the mention of what they conceived to be their rival—the Lady of Babylon; and without knowing exactly the object of the petition, they might have thought, that by signing it, they would receive practical relief in suppressing a rival competitor.

Sir Montague Cholmeley here interrupted Mr. Brougham, and declared that he knew nothing of the two persons to whom the hon. member alluded, and he could most positively assert, that he had never entered any houses of that description (loud and continued laughter through the house). Gentlemen might laugh, but he could again assert that he knew nothing of these two persons, or of their houses, or of any houses of that sort. He believed he was warm; he should otherwise have delivered his sentiments upon the Catholics and their claims.

Mr. Scarlett rose to present a petition in favour of the bill for removing the disabilities under which the Roman Catholics laboured, which was signed by 163 individuals; and he believed that a greater mass of intelligence than was to be found amongst the petitioners could not be met with amongst those who affixed their names to many other petitions, though the number of signatures might be five times or ten times as great. It was the petition of a number of English sergeants and barristers at law. But the house must by no means conclude that the whole number of the individuals at the bar of England, who were favourable to Catholic Emancipation, was comprised in those signatures. Many individuals of high character, and of profound knowledge, who concurred in the prayer of the petition, had, nevertheless, declined signing the document, because they were averse to the bar of England petitioning the legislature as a body. There were also other circumstances which rendered the petition worthy of consideration. If there were any body of men, to whom, more than others, it was beneficial to exclude competitors, that body was the bar of England. The gentlemen, too, who signed this petition, knew perfectly well, that an avowal of those sentiments was not now, nor had been for some years, the most ready road to preferment



(hear). Perhaps it would be found, that the best made, which a barrister of intelligence could take, for the purpose of securing honours, was to become an apostate from those principles of liberality and tolerance which he might have professed at any period of his life (hear, hear). He knew it was asserted, and that, too, in a high quarter, that the bar was deficient in talent. He unfortunately was growing odd amongst that body; but the bar of the present day might proudly enter into competition with the bar of former times. There were then but a few men of extensive knowledge at the bar, and that knowledge was chiefly confined to their own profession; but for general information, for extent and variety of knowledge, there never was such a body of men at the bar as those who now supported its character.

Mr. Brougham said he should be unworthy of ranking amongst that illustrious body, the members of the profession of the bar, whose importance to the constitution of the country—to the preservation of the rights of the subject—to the endurance and stability of the Government itself, was not less essential than to the due administration of the laws—if he did not join his testimony to that of his learned friend, and state his concurrence in all that he had said with respect to this petition. The petition had not been set on foot by those who were termed the leaders of the bar; but, when the matter became known, the petition was adopted by men of distinguished rank and standing. It was, however, impossible to find greater learning or integrity, amongst any body of men, than amongst those with whom it originated. No member of that house had signed it; nor any one of those Roman Catholics who were members of the legal profession. The northern circuit was a floating body, consisting of from 90 to 100 barristers. Upwards of 40, indeed nearly 50, of these gentlemen who went that circuit, signed the petition. He would venture to say, from his own knowledge, that considerably above 30 more, say four or five-and-thirty, had expressed their entire concurrence in the petition. They were known in the profession to concur most warmly in its prayer. The only scruple which prevented them from signing it was that which arose from their doubting the propriety of the bar as a body petitioning the legislature. Of the whole of the body of the northern circuit, not above half a dozen, he was sure not 12 persons, held an opinion adverse to the sentiments contained in that petition. He had no reason to believe that such an opinion was more generally entertained amongst that body of which he was a member, than by the gentlemen attached to the other circuits; and if that were the case, what an overwhelming number of professional men were in favour of the Catholic claims. Such a petition as this could not have been procured 10 or 12 years ago. Twenty years since, when the Catholic question was brought forward by Mr. Fox, and seconded by Mr. Grattan, the great majority of the members of the bar would not have concurred in such a petition; they would most probably have joined against the Roman Catholics. Let the house now look at the great change of opinion that had been effected. The circumstance that only six in the 100 of the most enlightened and best informed class of society were adverse to the Catholic claims, was a sufficient exponent of the alteration of opinion that had taken place.

The petition was then laid on the table.

Lord Nugent rose to present the petition of the Roman Catholics of England, in favour of the bill now before the house. The number of English Catholics amounted to 200,000. They came forward to give their support to the different petitions for Catholic Emancipation which had been laid on the table. He looked upon the cause of the Roman Catholics, and so did the petitioners, to be inseparable from Ireland. High as were the names of the Duke of Norfolk, and the other illustrious individuals who had signed the petition—powerful and wealthy as were the 200,000 persons who composed the Catholic body in this country, and who called upon the legislature to relieve them from civil disabilities—still, if they had only looked to their own interest, if they did not consider the interests of Ireland as intimately connected with their own—he would have been dissatisfied with the petition. But it was a general petition, which embraced the interests both of the English and of the Irish Catholics. The rt. hon. Sec. for the Home Department had said that he was willing to rest his vote upon the articles of the treaty of Limerick. But by the provisions of that treaty, no less than by the pledges which had been solemnly proffered at the time of the Union, did this country stand in the light of an unprincipled debtor towards Ireland; deferring as long as it was possible, and on the most unworthy pretexts, the fulfilment of an obligation which they were bound to observe upon every principle of moral as well as political justice. If, however, there existed no such obligation, he should esteem the claims of the Catholics not less unanswerable. It was stated in the evidence given before the Committee, that the despair which had been felt, the tone which had been assumed by the Catholics generally, and the existence of that Association which was now put down, might be dated from the period when, not this house, but Parliament, rejected the measure which was proposed to them for putting the Catholics of England and Ireland on the same footing. The Catholics never considered their cause separate from the great and universal cause of religious liberty. They were anxious that the toleration which they claimed for themselves should be extended to every other description of persons; even to those who, although like themselves they dissented from the Church of England, had so unwisely and ungenerously petitioned against them. The only real question upon which any opposition to the claims of the Catholics could be reasonably founded, was whether they admitted the interference of any foreign power with the affairs of this state. The Catholics denied the imputation. Who would believe that the Duke of Norfolk, the illustrious descendant of so many noble families, would become the liegeman of the Pope, or betray his fidelity to the Sovereign and the state? At no period of the English history had the most zealous members of the Catholic religion ever showed a disposition to prefer it to the liberties of England, still less to make it a means of restraining those liberties. The great charter was obtained by the exertions of Catholics, in opposition both to the Pope and to the King of these realms. The statutes of Mortmain and of Præmunire were passed for the avowed purpose of limiting the power which the Pope claimed to exercise. The re-establishment of the order of Jesuits had been assigned as a reason for continuing the restrictions under which the Ca-

because a dozen petitions, emanating from this heterogeneous mixture, had been presented against the Catholic claims, therefore the great body of Protestant Dissenters were opposed to them. They had, in fact, expressed no opinion. He would maintain, that not one in one hundred of the Protestant Dissenting congregations in England had given any opinion at all on this question. He believed the feeling of the Protestant Dissenters throughout the country, was, to leave the subject to be dealt with as Parliament in its wisdom should think fit. Speaking of them as a body, he believed they were perfectly desirous that justice should be done to the Roman Catholics; but they left it to the wisdom of the legislature to act as to them might appear most safe and prudent. He should be sorry if the suspicion which appeared to have entered the minds of some gentlemen near him, as to the feelings of the Protestant Dissenters, was in any degree well-founded. It would give him much pain, if the body of which he was speaking stood forward as the foes of—he would not say religious toleration, but religious liberty in its widest extent. If they came forward and called on the legislature to put its seal on this question—if they demanded that the claims of the Roman Catholics should be refused, he should be both surprised and grieved. As a body, he deemed it right to say thus much in their behalf, lest a false opinion might be entertained of the conduct of the Protestant Dissenters.

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Lord Nugent rose to present the petition of the Roman Catholics of England, in favour of the bill now before the house. The number of English Catholics amounted to 200,000. They came forward to give their support to the different petitions for Catholic Emancipation which had been laid on the table. He looked upon the cause of the Roman Catholics, and so did the petitioners, to be inseparable from Ireland. High as were the names of the Duke of Norfolk, and the other illustrious individuals who had signed the petition—powerful and wealthy as were the 200,000 persons who composed the Catholic body in this country, and who called upon the legislature to relieve them from civil disabilities—still, if they had only looked to their own interest, if they did not consider the interests of Ireland as intimately connected with their own—he would have been dissatisfied with the petition. But it was a general petition, which embraced the interests both of the English and of the Irish Catholics. The *rt. hon. Sec.* for the Home Department had said that he was willing to rest his vote upon the articles of the treaty of Limerick. But by the provisions of that treaty, no less than by the pledges which had been solemnly proffered at the time of the Union, did this country stand in the light of an unprincipled debtor towards Ireland; deferring as long as it was possible, and on the most unworthy pretexts, the fulfilment of an obligation which they were bound to observe upon every principle of moral as well as political justice. If, however, there existed no such obligation, he should esteem the claims of the Catholics not less unanswerable. It was stated in the evidence given before the Committee, that the despair which had been felt, the tone which had been assumed by the Catholics generally, and the existence of that Association which was now put down, might be dated from the period when, not this house, but Parliament, rejected the measure which was proposed to them for putting the Catholics of England and Ireland on the same footing. The Catholics never considered their cause separate from the great and universal cause of religious liberty. They were anxious that the toleration which they claimed for themselves should be extended to every other description of persons; even to those who, although like themselves they dissented from the Church of England, had so unwisely and ungenerously petitioned against them. The only real question upon which any opposition to the claims of the Catholics could be reasonably founded, was whether they admitted the interference of any foreign power with the affairs of this state. The Catholics denied the imputation. Who would believe that the Duke of Norfolk, the illustrious descendant of so many noble families, would become the liegeman of the Pope, or betray his fidelity to the Sovereign and the state? At no period of the English history had the most zealous members of the Catholic religion ever showed a disposition to prefer the liberties of England, still less to adopt a means of restraining their great charter was obtained by the Catholics, in opposition to the King of France, Mortmain and of France, for the avowed purpose of which the Pope claimed to be re-established of the order of the assigned as a reason for restriction under which the

start up, and retort with interest the sarcasm on the offender. The clergyman, however, was obliged to silence, and could not defend himself by the eloquence of any of his brethren. They were the only class of men not represented in that house: they ought, therefore, to be defended by the generosity of the house against sneers and sarcasms, which, if they meant any thing, could only mean that they ought not to come there as petitioners. He contrasted the different modes in which the petitions of the Catholic clergy and those of the Established Church were received by the house. The former were heard with kindness and attention, and were made the subject of lofty encomiums; the latter were flouted and discountenanced, and all but laughed out of the house. He thought that hon. gentlemen would perform their duty in a more fair and candid manner, by listening to the arguments which the clergy urged against these claims, than by denouncing them, without examination, as absurd and ridiculous, and by assailing them with laughter as soon as they were brought into the house.

Mr. *Hume* protested against the language of the hon. member who had just sat down, as utterly uncalled for by any thing which had occurred in that house. It would be preposterous indeed for men who professed liberal principles, to adopt such an illiberal mode of proceeding (hear, hear). The hon. gentleman had raised a phantom, which had no existence but in his own mind, for the sole purpose of demolishing it after it had been raised. What he (Mr. Hume) had said regarding the clergy on a former night, he was ready to say again. He had expressed his regret that the clergymen of England, who were so superior to the generality of the people, in education and rank in life, should be a century behind them in mildness and liberality of feeling. With Christian charity always in their mouths, they ought to exhibit a little more of Christian charity in their practice. Enjoying civil rights themselves, they ought not to seek to debar others from full participation in them. If there were any difference in the attention which the house bestowed on the petitions received from the Catholics and the established clergy, it was owing to this circumstance—that the former petitioned for justice, whilst the latter sought to perpetuate injustice (hear, hear).

Sir *Ellis Harvey* begged to observe, in corroboration of what had just fallen from the hon. member for the University of Cambridge, that when he presented the petition from the Archdeaconry of Essex, which did equal honour to the hearts and heads of those who signed it, it was received with an uproar and clamour which was more worthy of a bear-garden than of the House of Commons (hear, hear).

Mr. *Spring Rice* allowed that the petition was entitled to every attention; but at the same time, it ought not to be taken as conveying the unanimous opinion of the University. There were a great many of the resident members who dissented from its prayer; and among them some of the most enlightened and popular members of the Senate.

The petition was then laid on the table.

THURSDAY, MARCH 17.—Mr. *Peel* presented a petition from the University of Oxford, praying that those laws might not be repealed which excluded Catholics from certain offices of the State, and from sitting in Parliament.

WEDNESDAY, MARCH 23.—Sir *F. Burdett* brought up a bill to provide for the removal of the disqualifications which at present affected his Majesty's Roman Catholic subjects.

On the motion that it be read a first time, Sir *T. Leithbridge* said, that he rose to enter his protest against it. He not only intended to object to the details of the measure, but also to the principle upon which it was founded. He could not allow one single stage of it to pass by him without expressing his decided opposition. Of the bill itself, he knew nothing, but at any rate, it went to alter the test acts, and so far to change the ancient constitution of the country. If this bill repealed the oaths of supremacy and abjuration, so as to render them palatable to the Roman Catholics, it must be pretty nearly the same bill which had before undergone the consideration of Parliament (hear, hear). If that were the case, though novelty could not be urged against it, the same objections which had formerly been urged, might be repeated with all the confirmation which they had received from recent transactions. He allowed that on the last debate he had heard fascinating arguments advanced by the advocates of concession. Still he had not heard sufficient to satisfy him that more could be granted to the Roman Catholics, without danger to the constitution of these realms as by law established. He had not heard several very essential points of the Popish creed properly explained; and till that was done, he could never consent to give those who professed it, any thing like unqualified Emancipation. They were told, however, that they had nothing to do with the religious tenets of the Popish creed, and that they ought only to look at the political bearings of this important question. This he denied, even at the risk of being denominated a fanatic or a bigot. He knew that a great endeavour had been recently made to throw new lights upon this subject. He regretted, however, that they had not been brought into such a focus that any member of the house might seize them in his grasp and make himself master of them. He did not know whether it was orderly for him to refer to what had passed in the committee then sitting above stairs; but he had been informed by hon. members who had paid great attention to what had taken place there, that several witnesses had made depositions of a very extraordinary nature. Four bishops, as they were called, of the Catholic church, men of great learning, piety, and unblemished character—had given evidence before the committee up stairs, which was at variance with all the notions which had been usually entertained regarding Catholicism. It might be that the Roman Catholic church had recently adopted new doctrines, and if so, much of his former objections might possibly be removed. He did not, however, expect to have that point admitted; and till it was admitted, he must continue to press his former objections.

Mr. *Peel* said that though he did not intend to take the sense of the house at present, he wished it to be distinctly understood that his opinions on this question were entirely unchanged—that he was not inclined to enter into any compromise with the Catholic body—that he should give to this bill the same determined opposition which he had given to every bill with the same object which had preceded it—and that he should certainly take the sense of the house on the second reading (hear, hear).

He hoped that even those gentlemen who differed from him as to the principle of this measure would, if they succeeded in carrying it through its next stage, pay great attention to the details of it when it reached the committee; more especially since it had transpired, that the person who prepared the draught of the bill was Mr. O'Connell, the leader of the Association which the house had deemed it prudent to suppress.

Mr. Tierney, as one of the committee which had been appointed to draw up this bill, begged leave to say that he never knew of any such thing (hear). Ever since the Catholic deputation had been in England, he had not had one minute's political conversation with Mr. O'Connell: on the contrary, he had carefully avoided it. He had himself assisted in drawing up this bill, and did not know, nor did he believe, that Mr. O'Connell had any share of it. Some gentlemen of the committee might have consulted Mr. O'Connell on the subject of this bill: and he, in return, might have communicated to them his sentiments in writing. Those sentiments Mr. O'Connell might have considered as the foundation of the bill, and so it might have got abroad that he had drawn it up.

The bill was then read a first time with only three dissentient voices.

**LORDS, FRIDAY, MARCH 25.**—The Bishop of Bath and Wells, on presenting a petition of the Archdeacon and Clergy of Taunton, in the diocese of Bath and Wells, thought it right to trouble their lordships with a few observations. It had been asked whether it was consistent with that charity which distinguished the Christian religion, for the clergy to come forward with petitions against the proposed measure in favour of the Catholics. Many aspersions had in this way been cast on the clergy, but he thought that the petitioners acted up to the true spirit and letter of Christian charity, when they came forward and endeavoured to maintain pure religion—when they endeavoured to support Protestantism and the principles of civil and religious liberty against Popish domination. He trusted their lordships would always maintain the Protestant Church Establishment in this country; and concluded by moving that the petition be read.

The Earl of Darley contended that no aspersions had been cast on the clergy. If those reverend persons conceived that they were upholding the church to which they belonged by the petitions which had been presented, it was their right and duty to address them to that house. At the same time he could not help alluding to a petition from the clergy of Ely, which he could not regard as remarkable for its charitable sentiments. He thought the right reverend prelates ought to consider it their duty to admonish their brethren against coming forward with petitions of this kind. The reverend persons who signed this petition, cherished all that exclusive spirit of domination, and all that hostility to other sects, for which they blamed the church of Rome. They censured the Catholic clergy of Ireland—men who performed their duty in a way which it would be well for the petitioners to imitate. The reverend persons were not content with the state of the law as it now stood, but wished their lordships to retrace their steps, and again impose those restrictions from which the Catholics had been relieved.

Lord King finding it asserted in the petition

from Ely, that the church of Rome enjoined the prostration of the will and understanding of the people to the clergy, at first wondered from whom the reverend petitioners had stolen this fine phrase; but, in fact, it was taken from a charge of the Bishop of London. In another part of the petition, certain members of the Roman Catholic Church were styled "factious demagogues." Now this sort of vague charge was one which might be applied any where. It might just as well have been applied to the members of this house. A great many petitions had been presented from the clergy, which had better have been deposited with the chronicles of the church, and there left to rot. At present they came forward like an old medicine of the shops called *album græcum* which might be found about the corners of cathedrals. This medicine was once in high repute, like "No Popery," which was now rejected by the stomachs of the public, as much as *album græcum* would be if it were administered.

Lord Callhorpe acknowledged that sentiments appeared in some of the petitions which were not consistent with humanity and justice.

The Bishop of Chester presented a petition from the Dean and Chapter of Chester, against the Catholic claims. Before the petition was read, he would make a few observations on the comments which had been thrown out on the petitions presented from the clergy to their lordships. A few rash words which found their way into those petitions, were no more calculated to afford a just idea of the character of the clergy, than words occasionally employed, in their lordships' house were fit to be quoted as expressing the opinions and feelings of that assembly. He should be very far from judging of the character of their lordships' house by the speeches of some of its members, who might choose to draw metaphors from a dog-kennel. Noble lords had charged the clergy with intolerance: but he distinctly charged those noble lords with greater intolerance. They pretended not to oppose the presenting of petitions from the clergy; but nothing was better calculated to exclude them, than attacking the petitions one by one, and picking out any objectionable expressions which might appear in them. Reproaches had been thrown out against the Bishop of London for having employed that expression which had been so particularly applied in the petition. This was not the first time that the charge of the right rev. prelate had been misrepresented. That right rev. prelate recommended to all Christians, the prostration of the will and understanding before the precepts of the Gospel; but he did not recommend them, as the Roman Catholic priests did, to prostrate the will and understanding to a temporal authority, falsely presumed to be infallible. He did not know in what school the noble lord had studied his political tactics, but he would tell him that venting sarcasms against the clergy was an artifice to which the enemies of pure religion—amongst whom he did not mean to class the noble lord—had recourse in every age of Christ's church. He was satisfied that these sarcasms would not be attended with any success in that house; but it was impossible to hear them repeated night after night, and remain silent. If these personal attacks upon the bishops were parliamentary, it was time that the rules of Parliament should be changed; but if they were not parliamentary, then he

called on the house to protect them from such missiles by the shield of its authority. They held their seats in that house by a tenure which was both legally and morally not less strong than that by which the noble lords opposite held theirs; and they belonged to a body of men whom their lordships would find out one day, as their ancestors had found before them, that they ought to treat with respect, and not with contumely (hear, hear). He moved that the petition do lie on the table.

Lord King said, that the reverend prelate had insinuated that he (Lord King) was not a friend to the Church of England. He was not a friend to the Church of England whilst it encouraged intolerance, pluralities, and non-residence, and all the other abuses which at present existed in it. Out of eleven thousand parishes in England, upwards of seven thousand were held by non-residents, and only somewhat under four thousand by resident clergymen. He wished that those champions who stood up for the almost apostolic purity of the Church—

The Duke of Newcastle rose to order. He was not aware that there was any question before the house regarding the purity of the Church.

Lord Holland agreed with the noble duke that this discussion was not regular. He deprecated the idea that the introduction of this measure was to be considered as an attack upon the Church of England, on the one side; whilst he wished it to be understood, that the noble lords who opposed it on the other side, were not insisting on the merits of the Church of England, but were advocating the continuance of a monopoly of power—he did not use the phrase in an invidious sense—to themselves.

The Earl of Liverpool reminded the house that this discussion had arisen from the unusual course adopted by noble lords of entering upon a debate on the particular terms in which a petition was drawn up. He was far from saying that if a petition were presented to their lordships couched in indecent language, he would not object to its being laid upon the table; but he contended, that if the terms of every petition were to be discussed in this manner, it would be extremely detrimental to the right of petitioning.

The Lord Chancellor begged to enter his protest against the practice of making observations of this nature on petitions presented by the clergy, who had a right, as men, under the constitution of this country, to petition their lordships on the subject of any measure before them. They ought to be, of course, couched in decent language; but if their lordships were to observe upon every term contained in each petition, they would be subjecting them to a trial which, not even their own debates, if dealt with in the same way, could bear; he had reason to complain of communications having been made, in which he was said to have changed his opinion upon this question. He, therefore, took this opportunity of saying, that so far from having changed his sentiments upon the subject, every successive event—all the circumstances that were taking place around him—served to confirm him in the persuasion, that every man who wished to support the constitution in church and state, would go along with him in opposing the measure.

The petition was laid on the table.

MONDAY, MARCH 22.—The Bishop of Gloucester presented a petition from the clergy of the diocese of Gloucester, against the Catholic claims.

Lord King said this was another of those petitions in which the clergy took upon themselves to give advice in a matter of a purely political nature. He had been accused the other day of being out of order in commenting on a petition of this sort. Now, if the clergy chose to come forward and give their advice against granting the Catholic claims, he did not see how he was out of order in giving his advice against their petitions. Their forwardness on this occasion reminded him of a story he had heard. A French ambassador at the court of Madrid asked the Spanish minister, why his Catholic majesty was so fond of taking the advice of his confessor. The Spanish minister replied, "Surely your master does the same." "Yes," replied the French ambassador, "he does, and for that very reason our affairs are so badly managed." Whether the clergy were Catholics, Mahometans, or of any other religion, they had all the same propensity to give advice, and their advice, if followed, always produced the same mischievous result.

COMMONS, MONDAY, MARCH 23.—Mr. Spring Rice rose to present a petition from a number of gentlemen of consideration in Ireland, in favour of the Catholic claims. Many of these gentlemen, among whom there were six magistrates, and the owners of landed property to the amount of 200,000*l.* a year, had been formerly hostile to these claims. They now came forward to declare, that they thought the concession of the Catholic claims essential to the tranquillity and security of the empire. The petitioners added, that the concession of this measure would give them still greater satisfaction were it connected with two others—namely, an alteration of the existing rights of the 40*s.* freeholders, and a state provision for the Catholic clergy. He concurred with the petitioners in these opinions, and thought there never was a time at which this measure could be accomplished with more grace by the government, considering that they had lately passed a law against the Catholic Association. If he thought that any alteration in the constitution of the 40*s.* freeholders would be a violation of popular rights, he would be the last man to advocate such a step; but believing, on the contrary, that the suggested alteration would be a wise and salutary reform in the existing system, it should have his support (hear, hear).

Mr. M. A. Taylor begged to enter his protest against the alteration in the elective franchise, and the public provision for the clergy. If funds could be found for such a purpose in Ireland, let the clergy be paid out of them; but he should resist their payment in the manner proposed. He had opposed the plans of the new churches, because the people were refused the appointment of the clergymen. With respect to the alteration in the elective franchise, he, who had been a member of the society of the "friends of the people" (a laugh), and had always contended for the extension of popular suffrage, could not now acquiesce in its contraction.

Sir J. Newport was convinced that a measure like that proposed for reducing the fallacious votes of 40*s.* freeholders, in Ireland, would greatly tend to smooth the progress of the bill. He was the last man to wish to de-

price even the lowest member of the community of any wholesome rights or privileges. But, knowing the state of Ireland better than it could be known by the hon. member for Durham, he would venture to say, that it would do much in allaying the apprehension of danger as to the result of granting Emancipation. The hon. member might be alarmed at paying 300,000*l.* or 300,000*l.* a year to priests: would he prefer paying 3,000,000*l.* for soldiers to keep the country quiet (hear, hear)? These were not sufficient objections for delaying the ultimate decision of a question upon which depended the power of the British government to keep in peace and order a whole people, at present discontented, and paralysed in their powers to contribute to the general welfare of the state. As to the question of the elective franchise, whenever it should come before the house, he would prove, to the satisfaction of the most incredulous, that the people called upon to exercise this right, were not, as might be supposed, required to exercise it as free agents—they were dragged to the hustings to give their votes under arbitrary dictation, and not according to their own wishes. The franchise was not an advantage to them, but a serious evil.

Lord *J. Russell* thought that any abuses with respect to the exercise of the elective franchise, ought to be inquired into and ascertained by a committee, before the house proceeded to any alteration of the franchise. He approved of the provision for the clergy; but if he had even objected to these two proposed appendages of the bill, yet he would support them as conditions for securing Emancipation.

Sir *F. Burdett* undoubtedly concurred in the sentiment of the noble lord, that if any considerable support could be acquired for his bill by admitting the two appendages proposed, he must concede them for the sake of that which he deemed of the first importance—Catholic Emancipation. But he thought that he ought to demand the clearest testimony before making those concessions: otherwise he might lose on one hand what his ill-timed complaisance might acquire for him on the other. As to the stipend to the Catholic clergy, in the view of economy, the money required for that object would be so trifling, that it would not balance the weight of a straw in the conclusions of any rational mind one way or the other. But, at all events, he was not implicated in the fate of those propositions. Catholic Emancipation was the sole measure for which he was pledged; nor would he consent to mingle less significant details with that question.

Mr. *Peel* would not accept of the two measures now proposed as a compromise of his opposition to the bill. Neither the payment of the Catholic clergy by the government, nor the disfranchisement of the forty-shilling freeholders, would induce him to relax in his hostility to the bill.

Mr. *Thomson* was hostile to the two propositions, yet if it could be proved that they were likely to become means of conciliation, he would not object to their adoption.

Mr. *Brownlow*, from an extensive correspondence with those who had lived in constant hostility to Emancipation, was enabled to say, that in the event of that question being carried, it would materially lessen the general alarm, if it were to be accompanied with a pro-

vision for the Catholic clergy and a qualification of the franchise. Whether the Catholic question were carried or not, it was nothing more than a becoming measure to provide for the Catholic clergy, who, in the performance of the most arduous duties, might be said almost without a figure, to be left to beg their bread. As to the question of elective franchise, it was misnamed a franchise when applied to forty-shilling freeholders—they were not freeholders—they had no free choice. A Catholic bishop had declared, that he had seen men with the appearance of mendicants going to register their votes, though there was nothing like a qualification in their leases. They were compelled to go, or they must look for the severest consequences.

**LORDS, WEDNESDAY, APRIL 13.**—The Bishop of *Exeter* said, he had several petitions to present against the Catholic claims, which were not from the clergy, but were signed by Dissenters of every denomination. The first was from the churchwarden and inhabitants of the parish of Kenton, in the county of Devon; the second, from the churchwarden and inhabitants of St. Lawrence, Exeter; and the third from the inhabitants of North Bishop, Devon; all praying that no further concessions might be granted to the Catholics. The fourth petition he had to present was the only one concerning which he expected to hear a dissentient voice, as it was from that proscribed body, the clergy. In common, however, with all his Majesty's subjects, they had a right to petition. They came before their lordships, not to offer advice; and it was one of the most essential privileges of the people of this country that the doors of parliament should be open to their petitions. The petition he had to present was from the Archdeacon and Clergy of Totness, Devon. The petition had been agreed to by all the clergy of the archdeaconry, regularly assembled, with only one dissentient voice.—The petition was then read.

Lord *Holland* held in his hand a petition from the Rev. John White Jones, a humble curate in the diocese of the rt. rev. prelate, who had dissented from the opinion of the meeting at which the petition from Totness had been signed. A rt. rev. prelate had described the petitioners as the proscribed clergymen of the Church of England. He did not know in what sense the rt. rev. prelate meant that phrase to be understood; but the petition he (Lord H.) had the honour to present, came from a clergyman, who might justly be called proscribed. He was curate of North Bovey, in Devonshire. His petition was the more deserving the attention of their lordships, as, in consequence of having formerly shown his zeal on the same question, he had found himself precluded from obtaining promotion in his profession; his diocesan, the rt. rev. lord's predecessor, having refused to grant him the necessary testimonials. That rt. rev. prelate had since been promoted to a higher and more lucrative diocese, but the humble curate of North Bovey remained where he was. At the meeting where the last petition was agreed to, he attended, and protested against the decision of the majority. With regard to petitioning, he (Lord H.) could not subscribe to the opinion of a learned lord (the Lord Chancellor), that it was not proper to notice the language in which such petitions might be

deny the existence of danger. The objections which the Catholics had to the circulation of the Scriptures could not be forgotten, and notwithstanding the explanations which had been attempted on this point, the fact remained sufficiently proved; as also that their church was accounted infallible on all the articles of faith, and with respect to the moral virtues. The bill before the house gave to the Catholics a power of combining which they did not possess at present; and as their church was believed by them to be infallible, they might not only be induced but compelled to combine for any purpose which might seem desirable to the head of their church. Then, attempts had already been made to invade the property of the Established Church, and particularly its possessions in Ireland. The hon. member for Montrose (Mr. Hume) would find his efforts countenanced by Catholic members, who could not be expected to have any other feelings than those of hostility towards that Establishment. It was impossible to foresee what might be the success of a renewal of those attempts which had been hitherto defeated, when they should be backed by the influence to which he alluded. From a sincere belief that the bill now before the house was only the opening to a series of measures, the ultimate object of which was the subversion of those principles on which the reformation was effected, and the revolution established, he gave it his decided opposition, and he trusted that he should have the support of the house in the vote which he intended to give (cheers).

Lord Binning could not help congratulating the house on the great improvement which was perceptible in the manner of conducting the debate on this important subject. He remembered that when the Catholic claims were to be discussed, it was the custom, a few years ago, for an hon. and learned member (Dr. Duigenan) to come down to the house loaded with papers, to anathematize all the Popes and councils of former ages, and attribute to the Catholics of the present day the absurd doctrines of those ignorant times (a laugh). He was usually followed by an hon. baronet (Sir J. C. Hippisley), who read from ancient records long extracts to impugn the position of the learned gent. Fortunately, all that rubbish was now at an end. It was no longer imputed to the Catholics that it was a principle of their religion not to hold faith with heretics, or that Catholics were compelled, at the command of the Pope, to disobey their lawful princes (hear). It had always been the habit of the opponents of the Catholics to require from a Catholic bishop a disclaimer of these dangerous doctrines. Now, when the evidence of a Catholic bishop had been given, it was the mode not to believe it, and the bill was as usual opposed by the hon. member for Corke Castle (Mr. Banks) in the same cool steady manner that he would have put on had he been speaking in a committee of supply (a laugh). It had been stated by the hon. member for Derry, that the opinions contained in the evidence of Dr. Doyle, and in the letters published under the signature of J. K. L., of which Dr. Doyle was the author, were at variance. He had read the letters in question, as well as the evidence of the reverend gentleman, and he could not discover any inconsistency between them. The denial of the doctrines which had hitherto been supposed to form part of the Catholic creed did not rest with Dr. Doyle, but was also

made by the Archbishop of Dublin, the Archbishop of Armagh, the Primate of Ireland, and Mr. Blake. He believed that the respectable individuals to whom he had alluded were incapable of telling a lie to the committee of the House of Commons, or of perjuring themselves before the House of Lords (hear). With regard to the disfranchisement of the forty willing freeholders, it was in evidence that they felt no attachment to the privilege in question; but, on the contrary, that they would gladly resign it. He could not conceive that their disfranchisement would ever be drawn into a precedent, because, before a similar measure could be adopted, it would be necessary that there should be a country or district placed in precisely the same circumstances as Ireland. Under these circumstances he was ready to consent to the measure which the Protestants of Ireland called for, and which the Catholics were disposed to agree to. The hon. member for Corke Castle objected to the expense which would be caused by making a provision for the Catholic clergy. He could not stop to argue the point. Economy on such an occasion was misplaced (hear). If he were convinced that it was necessary for the state to pay the Roman Catholic priesthood, he would do it without caring for the expense. Whether the expense would be one, or two, or three hundred thousand pounds, it was not worthy of a great and wealthy country to consider. The rt. hon. Secretary for Ireland said that it would be extremely hard to make the Presbyterians of Scotland, and the Dissenters, and the members of the Established Church in England, pay for the support of a church which they did not approve of. That was the very thing of which six millions of Catholics in Ireland complained. They were compelled to support a church to which they did not belong, and of which they did not approve (hear, hear). He was convinced that it was in a bill like that before the house, that a remedy for the evils of Ireland was to be found. It was necessary to begin the task of amelioration by tranquillizing the hearts and minds of the Irish people.

Mr. Wallace expressed his belief that the bill would fail of producing those effects which its supporters anticipated from it. He thought that the time for bringing forward the measure had not been wisely selected. If the bill were to be sanctioned by Parliament, it could not be considered in any other light than as a peace-offering to the Catholics for the putting down of their Association. The only condition under which concessions could safely be made to the Catholics, would be the substantial interference of Government in the appointments of their bishops.

Lord Paltot avowed himself a convert to the cause of Catholic Emancipation. The prejudices which he had formerly entertained were entirely gone.

Mr. Canning would not undertake to say, whether or not the opinions of the country were as strongly pronounced in opposition to the Catholic claims now, as they had been formerly; but of this he was certain, that among the petitions which had been presented against those claims, whatever their zeal and sincerity, there had been some which displayed an extreme ignorance—he meant to use the expression without disparagement—of the state of the existing law, and the merits of the general ques-



He felt as strongly as any man the propriety of throwing open the door of Parliament to the petitions of the people; but after bestowing the consideration that was due to public opinion, the duty of the house was to proceed upon its own judgment (hear, hear). With respect to any class of persons who imagined themselves more particularly interested on the present occasion, and placed in the advance, as it were, as guardians, in a religious point of view, of the rights of the constitution—with respect to the clergy of England he gave them not only toleration but praise, when they came forward with the fair expression of their opinions; but, even in the petitions presented by that body, he had found some portion of the quality to which he had already alluded (hear! and laughter)—some ignorance, in fact, of the real state in which the law, as affecting the Catholics, stood at present (hear, hear). The charge applied peculiarly to one petition, which opposed the measure now pending upon so entire a mistake, that it actually prayed the house not to grant to the Roman Catholics privileges and immunities which were withheld from any other class of Dissenters. Upon the words of this petition, there was nothing which, if taken in their literal meaning, could militate against the bill before the house. The Dissenters had a voice in the legislature; they had access to seats in that house, from which the Catholics were excluded. As an advocate for an established church, he would not sanction any measure, which even in name would appear hostile to the present establishment, unless it were shown that it was necessary to the removal of a practical grievance. But petitions such as this did not apply to the question the house had to discuss. It was strange that such sympathy should be felt for one class of Dissenters, and not for another. The sympathy, he thought, ought to be the other way. What was it that prevented the Catholics from taking their seats in that house? The oath against transubstantiation. But while they excluded a man from Parliament for his belief in transubstantiation, it ought not to be forgotten, that the man who believed in transubstantiation enjoyed every privilege of the constitution. He did not say there was no difference between the two opinions; but the man who could make it a ground for exclusion from political power, must have a minute perception of the niceties of ratiocination, for which he might be envied as a logician, but which was wholly useless for the purposes of common life (hear, hear). The next ground for objection was, that the Catholics held the doctrine of exclusive salvation. Why, almost all the churches were exclusive on some articles; and let not hon. members who urged this objection forget that the Church of England maintained the Athanasian Creed—a human exposition of the great mysteries of Christianity (cheers)—and maintained it with the express declaration that they who differed from it could not be saved. With this fact before them, could the Catholics with any fairness be excluded from the enjoyment of their civil rights on the ground of believing in the doctrine of exclusion? The doctrine of absolutism had also occasioned much objection. In the abstract that doctrine was absurd; but the evidence before the committee of the House of Lords went to prove, that the absolutism depended on the disposition of the party receiving it, and not on the abstract power of the person giving it. Was this an opinion confined

to the Roman Catholic? Let any man read the instructions for the visitation of the sick, as directed by the Church of England, and he would find that the power of absolving might be exercised, and was resorted to, when the sick party desired it. These were points in which, essentially, there was very slight difference between the two religions. He did not mean to say there were no important distinctions between the Protestant and Catholic Creeds. But he was surprised when a question came before them touching the admissibility of sectaries, that they could quarrel with the Catholic upon such grounds as he had described, when they sat side by side with those who denied the divinity of our Saviour (hear, hear). The next objection—and it was one which he could not expect to have heard—was, that the Roman Catholics attached an overweening value to the merits of human actions. Would it not be more dangerous to a state to make good works nothing and faith every thing? He preferred the man who insisted on the necessity of good works as part of his religious creed to the man who considered himself controlled in all his actions by an inexorable fate (hear, hear). Refer to history, and see what it taught on this subject. Who were they who brought the monarch to the block? Who stripped episcopacy of the mitre, and of all its spiritual authority and temporal possessions? The Papists? No; but they who were most violently opposed to them, and who were earnest in their exertions to deprive them of all influence and authority—men, also, who professed little respect for the value of good works, but who relied on faith, and almost on that alone. The objection, then, to the Roman Catholics on the ground of the value they set upon good works, was one to which no weight could for a moment be attached. Neither did he see any valid objection in the argument drawn from the belief in the spiritual supremacy of the Pope. The question was not, whether it was acted upon by the Catholics, but whether it was acted upon in such a way as to make it dangerous to the state. He did not on this subject rest alone on the evidence of Dr. Doyle, but he must contend that the insinuations thrown out against the testimony of that reverend divine were somewhat unwarrantable. It had, he knew, been more than insinuated, that that reverend gentleman held one language before a committee of the House of Lords, and another to the public; but he would put it to the house, whether a gentleman of his character—putting aside the oath which seemed to be so little relied upon by many of those opposed to the present question—would have stated that which must, in a very short time, have become known to so many others of his creed—which must have become known to his flock, and to the Pope himself, the terror of whose name it was said was calculated to make so strong an impression—he would put it, whether, when so many of his own faith, of his reverend brethren in the ministry, were in the next room, and might be called in and give a different testimony, he would have gravely stated that which he knew was not well founded? It might then be taken that the opinion of Dr. Doyle was the opinion of the Catholics in general. That such was the opinion of other times he had no doubt, and he lately fell upon a direct illustration of it in the correspondence between Pope, the poet, and Bishop Atterbury. Pope, as every

gentleman knew, was a Roman Catholic; and the bishop, in a very laudable zeal, was anxious to convert his friend to the Protestant faith, for which purpose he wrote to him, pointing out what he considered the errors of his creed, and pressing him to renounce it. Pope, in reply, expressed a hope that all churches and churchmen were right in the belief of what they taught their flocks; but if they were wrong, he trusted God would incline them to reform. He added, that he was not a Papist, that he renounced the temporal authority of the Pope, and disallowed all his pretensions to such power; but that still he was a Catholic in the strictest sense of the word. This was not more than had been said by Dr. Doyle. It bore the marks of that confidential and honest opinion which men gave in private correspondence; and if the distinction between spiritual and temporal allegiance were, as it had been called by some, an absurdity; it was an absurdity of which Pope was guilty, and with which Atterbury was satisfied. It was said as another objection to the concession of political power to the Catholics, that they were, in Ireland under the guidance of men whom they regarded with a veneration bordering on idolatry. He admitted the fact; but he laid the blame on another quarter. If they bowed down before idols, it was our persecution which had set them up. We had left them no other objects of political respect (cheers). Let us, however, lift up the veil of the constitution, show them the object which we worshipped, point out the benefits that we enjoyed, and make them partakers of those benefits; and we should wean them for ever from all idolatry and superstition (cheers). He was not so fond of change as to be easily reconciled to it, even where it was proved to be unexceptionable. There were many considerations arising from the state of public opinion, which might possibly render such alterations unwise, but that was not the case in the present instance. Opinion had now arrived at that crisis, with respect to this great national question, that if they did not anticipate change, change would over-master them (hear, hear). Was it not a grievance that millions of people should suffer disabilities merely on account of religion? Was it not a grievance that the choice of the Crown should be restricted in the selection of its advisers, and in the extension of its favours? Was it not a grievance that any people should wear a badge marking them out from the rest of their fellow subjects as objects of suspicion and distrust, damping their hopes of industry and honour, and meeting them at every turn with exclusions from which other sects had been long relieved? No man would deny that there was grievance in all this; but the removal of those marks of disgrace would, it seemed, be attended with danger to the constitution. If any such danger existed, most certainly it would not be lessened by delay. To obviate the danger, if any there were, it should be met with promptitude, and the boon which would remove it should be granted with an earnest anxiety to do justice. He did not deny that the question, as was contended by the hon. member for Derry, was attended with difficulties, but the cure was in our own hands, though the evil was not of our creation. They however, by whom it was occasioned, were placed under circumstances very different from those of the present day. When the penal laws were enacted, the country was convulsed with

the disorders of a disputed succession, and the religion of the party hostile to the existing government was looked upon as the mark of their politics. As such it was proscribed, not so much to put down that particular form of worship, as to crush the political party who professed it. The Catholics were attacked by those who had felt their power when they possessed the political ascendancy, or who dreaded it if they should again become successful. It would therefore be injustice to our ancestors, to judge of their opinions of the Catholic religion by their conduct to the Catholic Jacobites of the day. They sought to weaken the power of those with whom they saw that reconciliation was impossible. They chose a cruel mode of effecting that object, but it answered its purpose. The penal code was dreadful, but it was admirably adapted to its use. It set father against son, wife against husband, servant against master; it destroyed the confidence, happiness, and virtue of society: it sowed fear in every house and reduced the population to a state of misery and degradation that placed them almost on a level with the brute. But when this cruel code had nearly exhausted its powers, when the last turn had been given to the wheel, the English Government, ashamed of its proceedings, relented and began to retract. What the Legislature did in 1778 was the first step to this merciful change: what was done since that period, and what was now proposed, were parts of a benignant system, by which it was proposed to end the season of persecution. He confessed he had often turned away with disgust at the cruel enactments, which, by a perverse ingenuity, sought out the most tender spots on which to inflict the wound with more poignant suffering to the victims. He had seen with disgust those ingenious devices of moral and political oppression; but he now hoped that he was looking at them for the last time, and that justice, though tardy, would at length effect their entire removal (cheers). Could we remain as we now were? It was impossible. We had every day proof of the decline of prejudice and intolerance amongst us. Since the commencement of this debate on Tuesday evening, a splendid instance of this had been given. The manly and candid manner in which that change was avowed, afforded a further illustration of the truth, that the times had changed. They had also proofs that this liberal policy would be met with corresponding feelings on the part of the Roman Catholics. What would be the effect, if they waited until the Catholics had increased in wealth, in intelligence, and industry, with an augmented population? Did the house not feel, that this intelligence and industry would open to the Catholics a new and wider field of action—that they would naturally be ambitious to possess that political rank which belonged to their wealth and station in society? Did not the house think they would be doing too little in raising them from that state of degradation in which our ancestors had placed them? Would it be sufficient to give only a nearer view of what they might enjoy, and yet continue to withhold it? It would have been better, far, to have allowed them to remain in the debased and degraded condition to which they had been sunk, than to have raised them partially, and then prevent their further elevation (cheers). A rt. hon. friend of his had talked of the admission of the Catholics and danger to the constitution: but

there was a long chain between the premises and the conclusion, the links of which he had not penetration to see. What force was it that his *rt. hon.* friend apprehended? Was it physical force? there was more need of physical force to a door that was shut than to one open (cheers and laughter). It should also be remembered that it was not power which it was proposed to give the Catholics, but eligibility—not fruition, but the capacity to enjoy. The Protestant Crown, and the Protestant population of this country had prejudices—honourable prejudices enough to guard against any possible mischief with as much precaution as any one could desire. His *rt. hon.* friend had said that they would never be satisfied—that they would go on insisting upon more and more, until his prophecy respecting the overthrow of the constitution should be miraculously fulfilled. But could the house suppose that the Catholic gentlemen, or the Catholic labourers, or the whole mass combined, in all their gradations, could ever hope or think to seize the powers of the state? Was this a probable—was it a possible event to contemplate? Suppose five or six Catholic gentlemen were admitted into Parliament. In the first session there would be some strange looks. Those gentlemen would have some inquisitive glances to encounter. But, in the course of a session or two, they would manage to sit beside them, with as much ease, as they now sat by the Dissenters, of whom they thought more favourably only because they were Protestants, as if, to use an expression of Mr. Burke's, he was the best Protestant who protested against the greatest number of doctrines. Of one thing he was sure, that no Catholic gentleman would say of the Protestant community what he heard a Protestant gentleman say the other night against his Catholic fellow-subjects (hear, hear)! One of the objections to this bill was as to time. He would ask, would any man lay his hand to his heart and declare that the measure would not pass these ten or twenty years? It was impossible to suppose that it could be postponed so long. Then, he would put it to the house whether there were any fair reason for delay? Should they wait till times and circumstances should occur which would render it absolutely unavoidable, and when it must be conferred without calling forth the grateful acknowledgments of those to whom it was granted? He hoped the house would never submit to the degradation of listening to menace; but times might arrive, and unlooked-for chances might happen, which would render our compliance with the prayers of the Catholics imperative. Were we to defer the boon until those events occurred which might take from the gift more than half its utility to the state? This was not the time for entering into an examination of the bill, but he would say a few words on it. As to the preamble, his *rt. hon.* friend stated that it was nothing but words. So were all laws. All legislation did but make distinctions. How could they be expressed but by words; what security could be given which should not be adopted in words? It was objected, that the oath in the bill was too long—that it was more like a bill of indictment than an oath disavowing imputations; but it should be recollected, that when the last bill reached the other house, where there existed a very nice sensibility on all those matters, the old oath was misused; and it was complained that the new one was too short. The old one was

therefore restored in this bill. Its long tail was added: yet this was no sooner done, than an hon. member found fault with it as unseemly. It might, on some grounds, be objectionable. The obnoxious part, however, of this oath was taken from the oath of 1793. It was therefore unfair in his hon. friend to attack the supporters of this measure for that which was no invention of theirs, which they would have omitted, had it been left to their discretion, and which they had only inserted to satisfy the scruples of those who saw danger in every concession that was made to the Catholics. In the first place, he considered that this security must always be measured by what was calculated to satisfy the Protestant interests of the country. A correspondence was carried on every day between the bishops of Ireland and the Court of Rome. Every thing that related to the affairs of the priesthood, and much of what related to the most important concerns of private life—he alluded to marriages and to baptisms—was regularly communicated to the Court of Rome. Such communications were in direct contravention of the existing laws; but then the penalties attached to the violation of them were so enormous, that no man of common humanity would ever wish to see them enforced. Therefore it was, that the authors of this bill, whilst they were considering how they could best cure the evils of the present system, determined to cure this collateral evil which arose out of it. If the opponents of this measure believed a correspondence with the Court of Rome to be so full of danger, he called upon them to find a remedy for that evil which was now in full existence, and a remedy which they would dare to carry into execution. The penalties inflicted upon any person carrying on such a correspondence were those of premunire. With regard to two or three of the measures which it was said were to be combined with that which now formed the subject of their discussion, he should be content to take the bill as it stood, without any of the measures which it was in the contemplation of some members to add to it. If by raising the elective franchise to a higher qualification than that on which it stood at present, he could render those who had long been avowed and inveterate enemies sincere and attached friends, he would be ready “to do a little wrong,” in order “to do a great good.” He made this declaration under the idea that a freehold qualification of forty shillings in Ireland was a very different thing from a freehold qualification of the same nominal value in England. If it could be shown, as he expected it would be shown in the committee, that in striking at this symbol of freedom, he was not violating the essence of free election, he should be ready to take his share in the obloquy, supposing any obloquy attended such a measure, of disfranchising the forty-shilling freeholders. With regard to the second measure, he would own that for some time past he had looked upon it with considerable favour; and that nothing which he had heard in the course of this debate had induced him to alter his opinion, that it was expedient for the Government to make some provision for the clergy of the Catholic church. An hon. friend of his had objected to taxing the Protestant part of the community in order to raise the funds out of which this *regium donum* to the Catholic clergy was to be made. Now, in reply to that objection, he would ask whether the Catholics did not pay the taxes out of which the *regium donum* was a portion of the

Protestant Church was yearly granted? Was it not upon the ground stated by his hon. friend, a grievance that the Catholic should pay tithes to a Protestant clergyman, whose doctrines he abhorred, and from whom he never demanded religious consolation? Did he (Mr. C.) therefore say that the tithe should be withdrawn from the Protestant clergyman? No such thing. To every thing which could improve the system of collecting it—to every thing which tended to shift the burden of it from those who could not to those who could bear it, he was willing to give his consideration; but to any measure which went to invade the property of the Irish Protestant Church, and to alienate the funds which had been assigned by our ancestors for its support, he was not prepared to give even a momentary assent. He had thought it fair to state the impression on his mind with regard to the disfranchisement of the forty-shilling freeholders, and to the provision for the Catholic clergy, because many of the gentlemen who had taken a share in this discussion had occupied their support of the present bill with that of these two measures. For the sake of their support, he should be anxious, if he could, to vote in favour of those measures; but in case they should not be carried, he would not say that he would withdraw his support from the present bill. He did not pretend to wed himself for life to either of those measures; but to the great question—that question which involved the future tranquillity of Ireland and the general welfare of the whole empire—he declared now, as he had declared before, that he was wedded for ever (cheers). He had already considered how far this question affected the internal situation of Ireland. The house ought to reflect, that in proportion as we became great and powerful, and as our resources outgrew the resources of other nations, it was not impossible—nay, it was probable—that among nations, as frequently happened among individuals, an envious feeling would rise up against our pre-eminence. Other nations would look for consolation in any weakness or defect they might observe, either in our form of government, or in the condition of our empire. And where would they look more readily than to Ireland (hear, hear)? They would fasten, as if by instinct, on the state in which we kept the Catholic population of that country. They would say, “There is the weakness—there is the vulnerable point of England” (cheers); and the worst of it would be, that they would say this with great semblance of truth. Impervious as the house might think the country to attack, they were cherishing a wound so near to its most vital parts, that no great increase would be wanted to render it fatal. He advised the house to disappoint those who wished us ill, by collecting our power in that quarter, where they expected to find it divided, by closing the wound which had long remained open and bleeding, and by taking care that before we were again called upon to vindicate the national honour, it was so far healed that not even a cicatrice was left behind it. Such a state of things was as possible as it was desirable; and his earnest prayer was, that they would adopt such measures as would tend to accelerate its consummation. (Loud cheering.)

Mr. Peel began with that topic which appeared to form the chief feature in the present debate—he meant the conversion of several members who had formerly taken the same view

of this question that he was now about to take. If he had changed his own opinion, he should also have been most ready to avow it; his opposition to the claims of the Catholics was decided, but unmixed, he trusted, with any feelings of ill-will or animosity. As to the conversion to which he had alluded, if the grounds of opposition had been removed by the evidence of Dr. Doyle, it must have been founded on reasons different from his (Mr. P.’s) opposition. It was true, Dr. Doyle had denied that it was a tenet of the Catholic church that the Pope had power to excommunicate princes and to depose them from their sovereignty—that faith should not be kept with heretics, and that the temporal power of the Pope was not admitted in Ireland. But this was not the first time that all these tenets had been solemnly disclaimed by the Catholic Church. The answers received by Mr. Pitt from the foreign Universities, contained an express denial of the three tenets he had just mentioned. If his hon. friend (Mr. Brownlow) had had his doubts satisfied, he had probably not opposed the measure on sufficient evidence, and certainly not on the same grounds as he (Mr. P.) opposed it. His hon. friend, however, gave his approbation conditionally; and if two other auxiliary laws did not pass, he meant to oppose the bill on the third reading. He did not attach to these measures the importance attributed to them by his hon. friend. Raising the freehold qualification was a measure of no importance; and settling a salary on Catholic priests seemed to him open to more serious objections than its mere expense. Even if he were not disposed to reject these two measures, he thought they offered no counterpoise to the dangers of the present bill. His rt. hon. friend (Mr. Canning) began by remarking on some of the petitions; and selecting one, he remarked that the petitioners were ignorant of the bill, for they complained of it as tending to give the Catholics greater privileges than were enjoyed by the Protestant Dissenters. But if ever there were an excuse for such a mistake, it might be found for these petitioners. If they had only had access to the speech of the learned Attorney-General for Ireland, they would see that he laid the claims of the Catholics on the broad grounds of abstract natural rights. According to the learned gent. it was as much an invasion of their rights as depriving them of their property. The petitioners might, therefore, easily conceive, not only that the Catholics were to be placed on an equal footing with them, but were to have every right they could claim. His rt. hon. friend had likewise noticed the petitions of the clergy against this bill, and had thought it strange that so much theological discussion should have been introduced into them. He could not participate at all in that surprise. If, according to the preamble of the bill, the doctrine, discipline, and government of the Church of England were to be permanently and inviolably maintained, it became necessary to consider what that doctrine, discipline, and government was, and where it was to be found explained. The doctrine of the Church of England was to be found in what were called the Thirty-nine Articles. In those Articles it was stated that the administration of the sacrament in a language which the vulgar could not understand, was contrary to the word of God—that the adoration of saints, the worshipping of images, and the sacrifice of

the men, were not sanctioned by the Bible; and that the Pope had no jurisdiction, either temporal or spiritual, within this realm. Now, when the clergyman of the Church of England was told that the doctrine, discipline, and government of his church was "established permanently and inviolably," and yet saw that it was intended to erect a modified establishment for another church which held as articles of implicit faith those articles which the Church of England condemned as unsanctioned by the word of God, had he not reason for thinking that the time was at length come in which his duty compelled him to introduce into his petition matter which trenchanted closely upon theological discussion? He was himself somewhat surprised at the two first clauses in the preamble of the present bill. They were as follow:—"Whereas the Protestant succession to the Imperial crown of this United Kingdom and its dependencies, is, by the act for the further limitation of the crown and the better securing the liberties of the subject, established permanently and inviolably: and whereas the Protestant Episcopal Church of England and Ireland, and the doctrine, discipline, and government thereof; and likewise the Protestant Presbyterian Church of Scotland, and the doctrine, discipline, and government thereof, are, by the respective Acts of Union between England and Scotland, and between Great Britain and Ireland, therein severally established permanently and inviolably." Why were these two clauses introduced into this bill? It contained no enactment which provided for the permanent and inviolable security of the Protestant Establishment. In the first bill that was introduced by the late Mr. Grattan they were there followed by a third clause to this effect:—"And whereas it would tend to promote the interest of the same, and strengthen our free constitution, of which they are an essential part, if the civil and military disqualifications under which his Majesty's Roman Catholic subjects now laboured were removed.\* That clause was omitted in the present bill; for to say that the privileges which it conferred upon the Catholics were intended to promote the interest of the Church of England, and to strengthen our free constitution, would be an absurdity too great for any man at this time of day to think of believing. From these two clauses being inserted in the preamble, he thought it was clear the framers of the bill imagined that there was in its enactments something pregnant with hidden danger to the constitution. The house would recollect, that in the feast in *Macbeth*, that tyrant, before he goes round the table to pay his respects to his guests, expresses an anxiety for the presence of *Banquo*, whom he had doomed to die. One of the commentators has remarked, that this single touch of nature showed a greater consciousness of guilt in *Macbeth's* mind, and excited a stronger suspicion that he intended mischief to *Banquo*, than a thousand laboured speeches could have done. He thought that the anxiety for the welfare of the Church of England exhibited in the preamble, and not followed up in any of the enactments of the bill, was one of those touches of nature which showed a consciousness of danger in the bosoms of the framers of the bill, and which ought to excite a lurking suspicion in the minds of the country that all was not so correct in it as at first sight it appeared to be. The constitution, he contended,

was virtually altered by this bill—the Bill of Rights was repealed by it. That bill provided by an enactment as solemn as an enactment could be, that the oath taken by every person on his admission to office should be the oath of supremacy; which asserts "that no foreign prince, person, prelate, state, or potentate, hath or ought to have any jurisdiction, power, superiority, pre-eminence or authority, ecclesiastical or spiritual, within this realm." This oath—he said nothing at present about the declaration against transubstantiation, which stood on different grounds—this oath was now to be abolished. He did not deny the right of the House of Commons to alter this oath, if it so thought good; but when they told him that they wished to secure to the Church of England permanency and inviolability, and when they altered that act which provided for it most effectually, he had a right to ask what security they had to give him for the fulfilment of their promises? He was not going to deny that the maintenance of the succession to the Crown in the Protestant line, was an important security. Still it was worth while to examine what it amounted to. It amounted only to this,—that an individual who came to the throne should make the declaration against transubstantiation, and should be in communion with the Church of England. The security of surrounding him with Protestant counsellors was removed. But how was it that James the Second endeavoured to effect his purposes? "By the assistance of divers evil counsellors, judges, and ministers employed by him," said the Bill of Rights, "did he endeavour to subvert and extirpate the Protestant religion, and the laws and liberties of this kingdom." He would suppose that the individual who filled the throne, after he had taken the oath against transubstantiation, considered the ancient religion of the country to be the wisest and best. He would suppose that he took advantage of the liberal doctrine which had been that night advanced, that a man's religious opinions were not matter of his own choice, and that it would be the height of intolerance to subject him to any disqualification on that account. Now if a King or Queen of this country, with a mind liable to the influence of designing persons, after his accession, were to become a convert to the Catholic faith, and were to declare his adherence to it, the tranquillity of the country would rest on the will of a single mind. An attempt to dismiss that individual from the throne, because he had, upon conscientious principles, changed his religious faith, would be productive of serious convulsions. In the reign of James II. it had produced them; and in that of Charles II. the suspicion of such an event had given rise to the precautions which it was the object of the present bill to neglect for ever. He allowed that the danger he was now describing was merely speculative; but when the fundamental laws of the country were going to be repealed, it was right to look even at speculative danger. They had been told that they were not to look at the clouds with a telescope, and to disregard the evil at their feet. Agreed, but they were bound to be cautious; and if they saw a cloud in the sky, which at present was not larger than a man's hand, they ought to recollect that it might, ere long, overcast the heavens, and involve the whole face of nature in desolation. They were now not deciding on the formation

of new institutions—it was not whether our form of Government was to be republican, where all religions were admitted equally to the participation of political power, but being a monarchy, with the Protestant religion established by law, whether we were now prepared to abandon the securities by which that Government was preserved and supported. It was to be recollected, also, that the temporalities of the Church of Rome had been transferred to the Protestant Church; so that, upon the principles of human nature, under the circumstances in which that religion stood in relation to our Establishment, he could find no security in the proposed oath. What was the practice of the constitution under analogous circumstances? The legislature disqualified revenue officers from voting for members of Parliament—it denied to the clergy the capacity of sitting in that house, on account of the influences by which it was presumed those classes would be affected. When he found such a man as Mr. Charles Butler entertaining the conviction that the Reformation had not led to the temporal prosperity of this kingdom; that it had not accelerated the revival of learning—it was impossible that he who entertained them should not consider the dispossession of temporalities as a great act of injustice; and with such impressions, he was not qualified to legislate for a state essentially Protestant. He felt the same conviction when he referred to the statements of Dr. Doyle; and he felt a total inability to reconcile the acknowledged publications of that rev. gentleman with the testimony given by him before the committees, in a letter written with calmness and deliberation. The rev. doctor gave this opinion with regard to the Catholics of England. “The Catholics,” said he “are now emerging from persecution and forming their society anew. Their sufferings are not effaced from their recollection, and cannot be so. The most heart-rending curse on the land-owners was the Church Establishment of Ireland (hear), like the scorpion, it stung, and drew the blood of the people” (hear). As to the incorporation of the Roman Catholic clergy with the state, he objected to it, not because they believed in the doctrine of transubstantiation, but because he could not reconcile himself to the operation of that civil influence which he believed to attach to their religious system: while he was ready to treat with charity and tenderness the private scruples of any man’s conscience, he could not approve of such a branch of faith as that of confession, which tolerated one man’s communication to another of his intention to commit a murder, but restrained that other from divulging the information to the intended victim. He could himself understand the distinction which had been drawn with regard to the extent of the power of absolution; but did the ignorant peasant make these nice calculations, and weigh them justly in a moral scale? Then as to the doctrine of indulgences, and their natural influence upon the temporal conduct of the people, it afforded no satisfaction to him to hear Dr. Doyle describe the scale upon which such indulgences were estimated, their extension to seven years, beyond which they could not prevail, or their shorter quarantine of forty days (a laugh); enough for him was it to know what must be their effect in the popular notion of the remission of the punishment of sin. But he was asked whether he thought the law could remain upon its present foot-

ing; that was a question which he was not at the moment prepared to determine; at the same time he begged to be understood as ready to remedy every ground of complaint as to the administration of justice. He would make all reasonable concession to the Catholic, while he would maintain the Protestant character of the Throne, of the Parliament, of the Church, and of the judicial bench. But he could not approve of exciting the hopes of the people, as they had been excited respecting this question, by appeals to abstract principles of civil right, and by attacks on the Government. That the great body of the Catholics would experience considerable dissatisfaction, should Parliament reject their claims, he by no means doubted. But that dissatisfaction would be attributable, not to him or to those hon. gentlemen who thought with him, and who had never encouraged the expectations of the Catholics, but on the contrary, had witnessed the growth of those expectations with deep regret—it would be owing to those who had excited extravagant hopes in the Catholic mind. They were told that they were not to treat with, but to legislate for the Roman Catholics, although the experience of their history for the last ten years showed them, that they had not legislated, but had actually treated with that body, and regularly conceded step by step to the Catholic, without one accompanying concession to the Protestant. The securities offered at present were so inefficient, that he would rather pass the bill on the principle of general toleration, than with any reference to these miserable securities. Of what use, for example, would be the *surveillance* by a permanent commission exclusively composed of Catholics, to regulate their intercourse with the Church of Rome, and to judge of the loyalty of a bishop. When Dr. Doyle was asked whether he thought the provision for the Catholic clergy ought to be inalienable, his reply was, that he thought it ought while the clergy maintained a loyal and peaceable line of conduct; and of this demeanour the board of Catholics was to be the exclusive judge. With respect to the measure for raising the qualification of freeholds, he hoped the house would not accede to it without very grave consideration. He was ready to admit that in practice the existing mode of creating these small freeholds was often full of evil—that it led to perjury, and to the creation of fictitious votes; but he should, nevertheless, be most unwilling to interfere for the purpose of disfranchising those who belonged to the lowest classes of society. The same objection which he had to the alteration of the franchise he likewise had to the other measure for the payment of the clergy. He objected to it not so much upon financial grounds, as opening a precedent for the payment by the state of other classes of religious Dissenters. When he compared the conduct at present pursued by this Government on matters of religious toleration, with that of a neighbouring country, where a law was in agitation for inflicting the penalty of death upon those who offered insult to certain mysteries of the Catholic church—when he made this comparison, the more he became convinced that the principle of Protestant predominance in government afforded a greater security than was likely to be provided by any other, for the preservation of civil and religious liberty; and to that principle he was firmly determined to adhere (hear, hear).

Mr. Brougham wished to have it clearly understood, that he voted for the old, known, and not-to-be-mistaken measure of Catholic Emancipation. As to ulterior views—as to the value of one or the other of those plans proposed for security—they were matter of detail, to be reserved for the deliberation of a committee. That these plans were of great importance—that they were hardly inferior to the question itself in importance—was not to be denied. But they were novel, difficult to judge of, and his doubts were increased by the fact, that of the gentlemen most knowing in Irish affairs, civil and ecclesiastical, those who were most skilled in ecclesiastical matters had not the least doubt that the civil measures would be highly satisfactory, and effect the lasting tranquillity of Ireland; while they felt even more certain that the ecclesiastical regulations would create and prolong dissatisfaction; and so, on the other hand, the gentlemen whose practice in civil affairs was understood to be such as to give weight to their opinions, foretold that the regulations of a civil nature which were preparing would tend to disturb the peace of the country, though they had no doubt of the good which would result from the ecclesiastical parts of the measure. He would come to the discussion with his mind ready for conviction from any arguments which could reconcile the seeming incongruities, but remembering always his general constitutional principles. Any thing which but seemed to approach disfranchisement on the one hand, must excite alarm; on the other, a large increase of the influence of the Crown, implied in the assignment of a provision for an extensive and powerful hierarchy, must equally affect him with jealousy. He was ready for the discussion of the new topics; but they had no necessary connexion with the Catholic question. His opinion upon that question was clear from all doubt. On all grounds upon which he had ever heard it argued, on all motives of expediency, the question stood where it did before. The safety of the empire depended upon the use which the Parliament might make of this, perhaps the last opportunity it would have, for granting as a matter of grace that which would otherwise be extorted from them in the hour of peril and adversity.

When the house divided, the numbers were—  
For the original motion, 269—For the amendment, 241.—Majority for the second reading, 27.

**LORDS, MONDAY, APRIL 25.**—The Duke of *Fork* said, that he had been requested to present to their lordships the petition of the Dean and Canons of *Windoor*, praying that no further concessions should be made to the Roman Catholics. He considered it unnecessary, in bringing before their lordships the petition of so learned and respectable a body, to assure them it was worded so as to ensure its reception; but before he moved that it should be read, he must be permitted to say a few words. Sensible as he was of his want of habit and ability to take a part in their lordships' debates, it was not without the greatest reluctance that he ventured to trespass upon their time and attention; but he felt that there were occasions when every man owed to his country and to his station, to declare his sentiments; and no opportunity could, in his opinion, offer, which required more imperiously the frank avowal of them than the present, when their lordships were called upon to make a total change in the

fundamental principle of the constitution, and, in his view of the question, to strike at the very root of its existence. Twenty-eight years had elapsed since this question had been first agitated, under the most awful circumstances, while this country was engaged in a most arduous and expensive, though just and glorious war; the agitation of it had been the cause of a most serious and alarming illness to an illustrious personage now no more, whose exalted character and virtues, and whose parental affection for his people, would render his memory ever dear to his country; it had also produced the temporary retirement from his late Majesty's councils of one of the most able, enlightened, and most honest statesmen of whom this country could boast. Upon this question they were now called to decide; and from the first moment of its agitation to the present, he had not for one instant hesitated, or felt a doubt, as to the propriety of the line of conduct he had adopted in reference to it. He must call their lordships' attention to the great change of language and sentiments which had taken place since the subject was first introduced, among the advocates for Catholic Emancipation. At first the most zealous of these had cautiously and yet strenuously endeavoured to impress upon the minds of the people, that Catholic Emancipation ought not to be granted without establishing strong and effectual barriers against any encroachment on the Protestant ascendancy. But how changed was now their language! Their lordships were now required to surrender every principle of the constitution, and to deliver us up, bound hand and foot, to the mercy and generosity of the Roman Catholics, without any assurance even that they would be satisfied with such fearful concessions. He had, upon a former occasion, taken the liberty of stating his sentiments fully on the subject, and had endeavoured to explain to their lordships that no person was more decidedly inclined to toleration than his late Majesty, but that it must be admitted there was a great difference between toleration, participation, and emancipation. He would not now enter into this discussion, convinced as he was that if the bill should again be brought under their consideration, its merits would be much more ably discussed by others of their lordships. There were, however, one or two points which appeared to him to have been kept out of view in the different debates that had occurred in various places, and which seemed to him of such vital importance that he could not help touching upon them. The first was, the situation in which the Church of England would be placed should Catholic Emancipation pass. If he were mistaken, he should doubtless be set right, but he had always understood that the Established Church of England stood in a very different situation from any other religious persuasion in the world—different even from that of the sectarians in this country. The Established Church was subject to its own Government, and did not admit the interference of the civil authorities. It was placed under the authority of the King as the head of it, and under the control of Parliament; so much so, that the Church was not only not represented as a body in the lower House of Parliament, but no clergyman was admitted to a seat in it. Surely, their lordships could not wish to place the Established Church of England upon a worse footing than any other church within these realms; nor allow the Roman Catholics, who not only refused to submit

to our rules, but who denied any authority of the civil power over their church, to legislate for the Established Church, which must be the case if they should be admitted to seats in either house of Parliament. The other point to which he had to advert was one he felt to be of a more delicate nature. He must, therefore, begin by stating to their lordships that he spoke only his own individual sentiments, as he must not be supposed to utter in that house the sentiments of any other person. He was sensible that by what he was about to say, he should subject himself to the scoffs and jeers of some, and to the animadversions of others; but from speaking conscientiously his own feelings and sentiments he would by no apprehension whatever be appalled or deterred. He wished to ask whether their lordships had considered the situation in which they might place the King, or whether they recollected the oath which His Majesty had taken at the altar to his people, upon his coronation. He begged to read the words of that oath:—"I will, to the utmost of my power, maintain the laws of God, the true profession of the Gospel, and the Protestant reformed religion established by law; and I will preserve unto the bishops and clergy of this realm, and to the churches committed to their charge, all such rights and privileges as by law do or shall appertain to them or any of them."—Their lordships must remember that our's was a Protestant King, who knew no mental reservation, and whose situation was different from any other person in this country; that he and every other individual in this country could be released from his oath by the authority of Parliament; but the King could not. The oath, as he had always understood, was a solemn obligation entered into by the person who took it, from which no act of his own could release him; but the King was the third part of the state, without whose voluntary consent no act of the legislature could be valid, and he could not relieve himself from the obligation of an oath. He feared that he had already trespassed too long upon their lordships, and he thanked them for the patience with which they had heard him. If he had expressed himself too warmly, especially in the latter part of what he had said, he must appeal to their liberality. He felt the subject most forcibly, and it affected him yet more deeply when he remembered that to its agitation must be ascribed that severe illness, and ten years of misery, which had clouded the existence of his illustrious and beloved father. He should therefore conclude with amuring their lordships that he had uttered his honest and conscientious sentiments, founded upon principles which he had imbibed from his earliest youth; to the justice of which he had subscribed, after serious consideration, when he attained more mature years; and that those were the principles to which he would adhere, and which he would maintain and act up to to the latest moment of his existence, whatever might be his situation of life.—So help him God!

The petition was read, and laid on the table.

### *Elective Franchise.*

COMMONS, TUESDAY, APRIL 26.—Mr. Littleton, in rising to move the second reading of a bill brought in on Friday last, for regulating the elective franchise in Ireland, said, that the present mode of exercising that franchise was fraught with great evil, as it regarded the property of the country, and the morality of the

people. He thought that any measure which tended to check the mode by which vast numbers of votes were procured from the most ignorant class of Irish peasantry, for the greater part Roman Catholics, would receive the approbation of the Protestant community, at the moment when that community was called upon to extend important political rights to the higher orders of the Catholic body. It had been said that his object was disfranchisement, and not regulation. But the house would presently see, that provision would be made to preserve in the most unqualified manner all vested interests at present in existence. For this purpose, a clause had been framed, which provided that nothing in this act should extend to affect any person who had registered a freehold, or who should register a freehold, before the passing of this act. After the passing of the act, there would be a cessation of the practice of multiplying those votes arising from freeholds, determinable on lives; and a creation of a different description of votes, which would be of the utmost importance to Ireland. There was nothing whatever in the bill which pointed at disfranchisement, the object being to elevate the character of the Irish freeholder as nearly as possible to a level with that of the English. At present they had no resemblance, the votes of the Irish freeholders being frauds on the law and the constitution; by their great numbers, they kept down the real freeholders of the country. The freeholders to whom this bill applied, were not, like the landholders of the country, the strength and honour of the nation—they were, on the contrary, its weakness and its discredit; for they ruined the very property which reared them. By the term "freeholder," in England, was understood, one who was in the actual and absolute possession of freehold property to the amount of forty shillings or upwards. There was another description of persons who also had a right to vote—he alluded to those who had an annuity, or rent-charge to the same amount. Such persons ought, he conceived, in justice to be deemed freeholders. But the Irish landholder, who in that country only was considered a freeholder, possessed no landed property whatever. He dragged out a miserable existence by labouring on the soil, and his right to vote was perhaps dependent on some other life. He not unfrequently held that right from a sub-lessee; he did not possess forty shillings a year in actual property; he might stipulate to pay a rent to that amount, and in default of that payment he was liable to be distrained upon, and whatever property he could call his own might be sold; he was obliged to attend at the session to register his freehold and swear that he was actually worth forty shillings a year; when he had committed that perjury, he was compelled to follow the herd to the hustings, and to vote for that person in whose favour his landlord interested himself, and of whom, perhaps, if he had the ability to judge for himself, and were left to take his own course, he would entirely disapprove. Gentlemen who were acquainted with county elections in England, knew that no greater complaint could be made against a candidate than that he had not personally solicited the votes of the freeholders. This was undoubtedly, at times very inconvenient to the candidate; but the jealousy with which the freeholder viewed any omission of the practice, proved that he understood, and rightly appre-



which, the value of the great privilege which he enjoyed; and which, therefore, he would not exercise lightly, nor in the support of a man by whom he conceived he had been slighted. But woe to him who visited and canvassed the electors of Ireland. He must be prepared to fight at least one duel, as the reward of his temerity. He understood it was the rule in the courts of law in Ireland—(a member called out “the courts of honour,” which caused much laughter)—he understood it was the rule in the courts of honour in Ireland, that whoever ventured to bring over to his interest the voters on the estate of a gentleman who wished to have his opponent returned, must justify his conduct at the pistol’s mouth. It was said that his best friend, the member for Galway, who was perfectly conversant in these matters, considered the offence given by such an act to be of so positive a nature, that he could hardly decide whether the person so conducting himself was not bound to receive his adversary’s fire without returning it (a laugh). No man but a priest could trespass on the province of a landlord; but whenever the landlord and the priest were brought into competition, the latter always drove the former out of the field. In the evidence before the committee, Mr. Blake had thus described the Irish 40s. freeholders:—“In general they pay what is originally a rack rent for the land, they then build mud huts upon it, and if they make out of the land a profit of forty shillings a year, a profit produced by the sweat of their brow, they reconcile to themselves to swear that they have an interest in it to the extent of forty shillings a year, whereas the gain is produced, not through an interest in the land, but through their labour.” Generally speaking, the forty shilling freeholders exercised no free choice at elections. Mr. O’Connell stated, that “in many places, the 40s. freeholder was considered as part of the live stock of the estate.” And when asked, “Are you of opinion that there is any great difficulty in making registries of freeholders without the business being very accurately performed according to law?”—he answered, “The greatest facility; the clerk of the peace can appoint his deputy, any man can be his deputy for the moment, and it is the easiest thing in the world to register freeholds upon the present system, without either freehold or valid tenure to constitute a freeholder. He had known numerous instances, where, if a peasant was made to swear that he had a freehold of forty shillings, he would have perjured himself in the grossest way; and in those instances a friendly magistrate or two may very easily get into the room: an adjournment of the sessions for the purpose of registry is the easiest thing in the world, because the Act of Parliament gives validity to the registry, notwithstanding any irregularity in the adjournment of the sessions: therefore two magistrates can come together very easily, get the deputy of the clerk of the peace to attend, and they can register upon unstamped paper if they please. They can register with the life described in such a way, that that life will be either dead or living, as they please, at the next election; John O’Driscoll or Timothy Sullivan, or any thing of that kind. Frauds with respect to the registry of freeholds are very considerable, but still it is a very great advantage to the Irish peasant upon the whole, to have the power of voting given to him by a forty shil-

ling freehold.” It could not be doubted that the act of 1793 created a great additional interest in that house in favour of the Roman Catholics, and forwarded the claims of that body. Looking at that fact, he did not disagree with Mr. O’Connell in the conclusion to which he had come—namely, that under the existing state of the law, it was advantageous to the Irish peasant to possess this privilege. But Mr. Shiel said, when speaking of raising the qualification of freeholders, “so far from its being an injury, it would be a benefit to the lower orders that the qualifications should be raised, and that the mass of the peasantry should not be invested every five or six years with a mere semblance of political authority, which does not naturally belong to them, and which is quite unreal. The peasantry are driven in droves of freeholders to the hustings: they must obey the command of their landlord; it is only in cases of peculiar emergency, and where their passions are powerfully excited, that a revolt against the power of the landlord can take place.” Mr. Hugh Wallace’s examination was to the same effect. “Do you know in what manner some of the proprietors in Ireland are in the habit of controlling the votes of their tenants?—I know two modes by which they harass the tenants who do not vote as they wish them to do. One is, preventing them from having bog ground, (the right of cutting, in the bogs of the landlord, firing for the tenant,) which, in general, is not granted by the leases, but is an easement that they are permitted to enjoy by the landlords: the other is, the compelling them, upon estates where it has always been allowed that half a year’s rent should be in the tenant’s hands, to pay up that to the day it becomes due. So that if the forty shilling freeholder votes according to his own judgment, he is immediately obliged to pay up what is called the back half year’s rent, and is deprived of firing for the next half year. Generally speaking, those 40s. freeholders exercise no freedom of election whatever.” The evidence of the hon. member for Kilkenny (Mr. Dennis Browne), was exceedingly important. “If the object is a free and fair election; if the object is, that a man should represent the fair sense of the county, undoubtedly the forty shilling freehold system is entirely against that. The present election laws are all for the encouragement of fictitious votes, because they give no power of examining at all; any man that is registered must vote; as to going to a petition afterwards, that is quite out of the question; we can hardly stand the expense of an election, much less of a petition.” Now the measure which was at present before the house was intended entirely to remove those fictitious votes; and he was surprised that any gentleman should oppose such a measure. Mr. Brown was asked, “Are not the small freeholders so much under the influence and in the power of the landlords, that they dare not act against them?—I think they are; because they owe us generally double what they have to pay us.” The house might here see the demoralizing effects of this system: if one of these freeholders, at the general election, dared to vote against his landlord, the punishment of his temerity would be an ejectionment from his residence. What further proof was necessary of the demoralization which must be produced by such a system, than the fact, that landlords did not only pursue this course, but that they pursued it with impunity? Where was the English

county member who would venture to speak of his constituents, as Irish county members did not scruple to do? Where was the English county member who would venture to act towards his tenants and voters, as the Irish county members did not hesitate to act: if he once hazarded such a course, he would pay for his temerity. Mr. Blake was asked, "Do not you think a considerable outcry would be raised in Ireland, if it were proposed to raise the qualification of forty shilling freeholders?" His answer was, "If the forty shilling freeholders were persons of independent property, exercising through their property any influence, I think it would produce a very serious outcry; but the present forty shilling freeholders are not persons likely to feel it." This was indisputably the fact. The Irish forty shilling freeholder had nothing to lose. Such a loss as that of voting, would, in fact, be a real gain. He would lose a painful and disgusting obligation, of being obliged to establish a right by perjury. But if the bill of the hon. baronet passed—and he did not desire that the measure he now proposed should be carried without the other—then would the Irish Catholic enjoy the gratifying feeling that he was placed on an equality with his Protestant brother. To the nobility and gentry of Ireland the act which he now endeavoured to introduce would be of inappreciable value, for it was a measure which would bind them to abstain from cutting up their estates and incomes, by raising those immense armies of fictitious freeholders. They would be obliged to depend, as the nobility and gentry of England did, on the force of public opinion. They would have no influence beyond that which was attached, and would always be attached to the possession of extensive property. Another feature of demoralization arising out of this system, which he could not pass over in silence, was the growing indifference of the lower classes of Ireland to the sanctity of oaths. This was produced by the multiplication of oaths, which were, in consequence, looked upon without awe, and frequently violated. Mr. O'Connell in his evidence, said, "the frequency of oaths has had a most demoralizing effect on the peasantry of Ireland. This is principally evident in the minor courts of justice in that country. To have a conscience is bad. The man who has one can do his friend no good; but a witness who is free from such tie is invaluable. The peasantry employ their children, at a very early age, to act as their witnesses, and the consequence may easily be imagined." What hope was there of amelioration in a country where landlords were constantly encouraging the disregard of a sacred form? Before he entered more particularly into the provisions of this bill, he would state, that there was no novelty in its principle. Formerly, in this country, freeholders of every description were allowed to vote. But, by the statute of Henry VI., the right of voting was restricted to those who had forty shillings a-year or upwards, of real property. According to the value of money at present, as compared with the value in the reign of Henry VI., it might be argued that the qualification ought to be raised. But there were very few freeholders in this country who did not possess a more extensive property than that which would barely qualify them to vote; and when he considered their independence, and intelligence, they appeared so admirably

qualified for the discharge of their duties, that the propriety of altering the qualification had never entered into his mind. But the qualification of freeholders in Ireland had frequently been modified. When in 1793 the elective franchise was granted to the Roman Catholics of Ireland, it was foretold by every man of sense in the Irish Parliament, that frauds of every description would be resorted to. This was soon verified; and the act of 1795 was passed, which made occupancy the condition of voting. The evil, however, not only continued, but increased. A law was in consequence enacted, which provided that no forty shilling freeholder should be allowed to vote, unless his freehold were registered for one clear year prior to the day of election, and it also provided that the registration should be renewed every seven years. Here, then, a clear distinction was made between the forty shilling freeholder and the forty pound or fifty pound freeholder. But this was not all. By an act of Parliament passed in the month of June last, known as Mr. Browne's act, joint-tenants were prevented from voting. The preamble set forth that certain joint-tenants were in the habit of voting for members of Parliament, to the material prejudice of the improvement of the people, the right thus assumed being a colourable one only; and the bill declared that no joint-tenants, as described in the preamble, should be thereafter allowed to vote. Here, then, was a prospective disfranchisement of a large body of people, and especially of Roman Catholics. That bill was agreed to by a large body of those who considered it as a step towards procuring Catholic Emancipation. He did not know how the parties who were friendly to the bill of last year, could consistently oppose the present. The whole question, it appeared to him, resolved itself into the amount to which the qualification should extend; for the principle, he had shown, had already been recognized. What the qualification should be, it was in the breast of the house to determine. Three sums had been spoken of—five pounds a year, ten pounds a year, or 20 pounds a year. If the qualification were as low as five pounds a year, it would only increase the evil (hear, hear). He was sure there were but few landlords who created freeholders under a rack rent of forty shillings a year, that could not, with equal facility, get his tenant to swear that he had an interest in the land of 5*l.* a year, although he only derived that sum from his labour. If the amount of the qualification should be raised to twenty pounds, he feared that it would have the effect of reducing the electors to too small a number for the fair expression of the public opinion. His own wish, therefore, was in favour of the qualification being limited to ten pounds, and this he believed would be sufficient to guard against perjury. He would now come to the advantages which this regulation was likely to produce to the country. In the first place it would operate as a bounty for creating that valuable class of men, a yeomanry, the absence of which in Ireland had, it was admitted universally, been the cause of many of the evils under which that country laboured. In the second place it would tend to strengthen and confirm the Protestant interest, and the Protestant establishment in that country. If it were true, as was generally believed, that the population of Ireland was Catholic, while the

possession of property was in the hands of the Protestants, any measure which tended to strengthen the latter class, must surely be approved of. In support of this view of the subject, he would quote the opinions which had been given in evidence on the Committee, by the hon. member for Louth (Mr. Foster) and by Mr. Blake. It would be perhaps impossible to find persons better qualified than those gentlemen to give opinions on this subject, or opinions which were more satisfactory. This question was put to the hon. member for Louth: "What is your opinion of the effect of the operation of the elective franchise, in respect to forty-shilling freeholders, since the act of 1793?—It tends to any thing but their own freedom, or the assertion of their own privileges; it has had the operation of adding very considerably to the number of the existing population in Ireland, and still more to their misery. A more mistaken view of the subject could not be, than to suppose there is any freedom of choice practically existing on the part of those persons; it is a clear addition of weight to the aristocracy, and not to the democracy, in elections. It tends to set aside any real value or importance that the substantial freeholders of fifty pounds, or twenty pounds, might otherwise have; it bears them down by a herd of people, each of whose votes is of as much consequence as their own, and who are brought in to vote, without any option on their part. The only doubt that ever arises is, whether they are to give their votes according to the orders of their landlord or of their priest: the tenant in neither case exercises any other choice than to determine which he will encounter—the punishment he may expect from his landlord in time, or that which he is told awaits him in eternity. There is no end to the perjury in qualifying for the franchise." "Do you not think that a Protestant member of parliament, depending entirely for his election on Roman Catholic constituents, would vote very much as a Roman Catholic member of parliament elected by the same persons?—I think he would, and that he does, though not with the same sincerity." "Do you think, that that portion of the Irish Protestants, whom you have stated to be adverse to the claims of the Roman Catholics, would be more disposed to entertain the consideration of those claims, if they thought any modification of the right of voting might be a part of the arrangement?—I think a great many of them would be very much influenced by that consideration, and decided by it." "What would be, in your opinion, the inconvenience of depriving the forty-shilling freeholders in those parts of the country of the right of voting?—I think the consequence would be to diminish the influence of the aristocracy in elections, and to give to the substantial yeomanry of the north a new and important influence. I dare say the forty-shilling Protestant freeholders in Ulster might feel a little mortified at the passing of the law; but I beg to say, that even with respect to the Protestant freeholder, I do not think it would be any real loss to him, for I do not consider that even the Protestant freeholders of Ulster exercise their own judgment. They, too, are in the power of their landlords." "What do you apprehend would be the effect of the alteration of the elective franchise in the other three provinces of Ireland?—I think one immediate effect of it would be to present to many of the members who now sit for the

south of Ireland, the option of losing their elections, or of resisting the Roman Catholic claims. I think some of the present members for the south of Ireland hold their seats by virtue of the forty-shilling franchise." "Supposing the Catholics to be emancipated, and the elective franchise to be raised to 20*l*., would there not be fewer persons in parliament for Ireland, depending on Catholic constituents, than there are now?—Probably not half a dozen representatives for Ireland, depending on Roman Catholics; but it may be material to observe that every thing I have said supposes the legislature shall not create any franchise intermediate between 40*s*. and 20*l*.. If the franchise were raised to 5*l*., I am persuaded very many of those unfortunate persons who have sworn to a franchise of 40*s*. would swear to one of 5*l*.. I do not think they would outrage appearances so far as to swear to one of 20*l*." Upon this answer, then, he (Mr. Littleton) thought he was fully justified in fixing the qualification at 10*l*.. The evidence of Mr. Blake on the same subject, was to the same effect, and he had added, "I think a state provision for the Roman Catholic clergy, if the Roman Catholic body were taken into the bosom of the state, and received as good and faithful subjects, would be considered a great boon, and would give great satisfaction both to the clergy and laity." After the evidence which he had quoted, as well as from the deep and anxious consideration he had given to this subject, he could not doubt that the main and immediate tendency of this measure would be to take from the Catholic population an influence in elections which was neither useful to their interests nor safely exercised, and to extend that which was more properly vested in the higher orders, strengthening at the same time the Protestant establishment in that country. He had been pressed by more than one hon. member in that house to abandon the measure which was now under discussion, and to content himself rather with the appointment of a committee. He had, however, declined to do this for several reasons. In the first place it was upon the evidence contained in the report of Parliamentary Committees that this measure was founded. Whatever difference of opinion might prevail as to the nature of the remedy to be proposed, there was none as to the existence of the evil, which was admitted in its fullest extent. To attempt to reach this evil through the slow means of another committee, was in vain; and such was the spirit of evasion in Ireland, that he was convinced any measure short of that legislative enactment which he hoped would now be adopted by the house, would only add tenfold to the perjury and the other evils with which the present system abounded. There was no man who did not feel that this question had now arrived at a point where it was impossible for it to remain stationary (hear, hear). If the public opinion were really to direct the proceedings of that house, who could deny that it was now loudly expressed in favour of the question? Who could observe the heirs apparent to some of the peerages of the realm differing from their fathers, and renouncing the old prejudices which had hitherto seemed inseparably connected with their family names, and yet doubt that the time had arrived when this question must be carried? The Catholic clergy, and the laity, were now willing to make sacrifices

much greater than they had ever before offered or contemplated. Of this disposition they could give no greater proofs than by their concurrence in the measure before the house. There was no concession which they would not make in return for the boon which this bill was to confer on them; and when it should be carried into effect, they were willing to pass an act of oblivion on all that had taken place, and to hold out the hand of reconciliation (cheers). He felt that he should be wanting in candour, if he did not state, that amongst his constituents there were many persons for whose opinion on every other matter he had the highest respect, with whom on this it was his fate to differ; but he must add that in that part of the country to which he alluded, the question was rather regarded as one of religious antipathy than of political regulation. He was, however, satisfied that the same causes which had produced so great a change in the opinions of parliament, would have a similar effect out of doors, and he had no doubt that in a very short time all persons would be united in their conviction of the expediency of this measure. For his own part, he should act upon this opinion with unabated zeal; and he was perfectly convinced, that until parliament should consent to do what was just toward the Catholic people of Ireland, they could never hope to establish that peace and union which were necessary to the well-being of the nation (loud cheers).

Mr. L. Foster said, that he had no hesitation in repeating, that the existing state of the elective franchise in Ireland was a great evil. But it by no means followed that he was prepared to go the same lengths with the hon. gent., or to adopt the measure which he had proposed. If the hon. gent. was prepared to apply his remedy to every description of fictitious freeholds in Ireland, he was ready to go along with him (hear, hear). But if the measure which he proposed were calculated, like the present, to place matters upon a footing more objectionable and more unconstitutional than they were now, and to give place to greater immorality than even at present prevailed, he felt compelled to withhold his assent. The rock upon which the hon. gentleman's scheme would be wrecked, seemed to be this—he carefully avoided meddling with the fictitious freeholds when they assumed the garb of fees simple, but he attacked them with a bold hand indeed when they were only terms for lives. That would have the effect of doing away nine-tenths of the voters. Every freeholder in fee under 20*l.* was obliged formerly to produce the instrument under which he held, and to swear that he held the estate personally. But by an act passed in the first year of his present Majesty's reign, he might swear that he was entitled to a forty-shilling freehold, without producing his title-deeds. The consequence was, that upon a number of commons in Ireland persons built hovels, swore for those hovels, and voted for them. Their number was constantly increasing. They did not take the trouble of registering themselves, but were registered by some neighbouring gentleman, for they were generally of the poorest class, and were scarcely amenable to the law. They had no rights, but this tortious possession, and they were obviously the most likely persons to be exposed to such modes of influence as that house would wish to discountenance. With respect to this class of voters,

he would propose that no person hereafter should be allowed to register any franchise under 10*l.* unless he were rated to the county rates for two acres of land (hear, hear). A provision of this kind would not exclude any honest vote, but would exclude only that class to which he was alluding. The freeholders in market towns, were persons of a better order than the mere peasantry; they were not open to perjury; and, therefore, their votes ought to be protected.

Mr. Brougham was unfeignedly sorry that this question had been interposed between the discussions on the other bill. As a sincere and fervent friend to Catholic Emancipation, he had great reason to complain that he and those who thought with him on that important subject should be called, whether they would or not, to the discussion of this collateral question, which had no necessary or natural connexion with that of Emancipation; but which was brought in as if it were part and parcel of the bill of his hon. friend the member for Westminster, and made to proceed *pari passu* with it. It had been read the first time immediately after that bill had been read the second time; and it was now to be read a second time just before that bill was to go into a committee; and was to come out of that committee just at the time the other would be reported. It also contained a clause to provide that it should not take effect unless the house passed that other bill. This he considered an unprecedented solecism in legislation. The house was in effect manifesting a distrust of its own intentions, and taking security against its own acts. He hoped that so venerable a body as the parliament of England would not set the example of saying, we are in such a state of ignorance as to what we are doing, that we can take no step in this matter without saying this shall go for nothing unless we do a certain other thing. He was a sincere and an enthusiastic friend of the Catholic cause. From the first moment at which he had come to a solemn conviction on that subject—from the moment at which he could make his vote in that house available in support of his conviction, he had steadily and conscientiously advocated the question. Now that he had entertained sanguine hopes of its success—and God knew that if ever its success seemed particularly necessary, it was at this time—at this moment he found himself placed in the cruel situation of being called upon to decide another question, upon minutes of evidence which furnished contradictory information, and which therefore left him in total ignorance of its real merits—a question which, upon the face of it, whatever appearance it might assume when it should be sifted out, sounded in disfranchisement. Upon this question he was told he must now decide, or he would be impeding the success of that measure, which he believed was of vital and absolute necessity to the safety of the empire. This was the first ground of his complaint. If he were inclined to be dogmatical, he should say that he disapproved of the measure. For aught he knew it might be a very sound one; it might deserve all the encomiums of the hon. member for Stafford; it might deserve the attention of the house; but it was novel in its nature, and came upon them with such rapidity and urgency, that the house had no opportunity of inquiring into its real merits. Did not all this prove to the house the neces-

sity of passing? They were called upon to adopt a measure which the hon. member by whom it was introduced told them was founded upon the evidence of the hon. member for Louth. That hon. member got up in his place and said, "I am wholly against the measure. My evidence means no such thing as you imagine. Either I will agree to no bill at all, or I will have one that shall go much further. I will have not only the tenants of leases for lives disfranchised, but the tenants in fee simple also. The elective franchise is, in Ireland as in England, too large already; we find the numerous voters at elections troublesome." Was this not enough to induce the house to pause (hear, hear)? They were told by a class of men, who had carried their dogmatical notions almost as far, and with a spirit similar to the religious persecutions of other times—he meant the political economists, who had held up a valued friend of his, Mr. Malthus, to public ridicule, only because he differed from Mr. Ricardo on a mere metaphysical, not a practical point—that they ought to pass this measure for the purpose of checking that redundant population which he was ready to admit was a great evil in Ireland. When, however, he looked into the evidence, he saw nothing to support this dogma of the political economists. It was the same with respect to the subdivision of property, on which great stress was laid by the same sect; and thus the reasoning, however ingenious and satisfactory to the persons who advanced it, was altogether worthless, because it was in no respect borne out by the facts. Another sect said, "The Catholics, greatly to their own credit, have agreed, clergy and laity, to give up this question of the elective franchise, and, in return for this valuable concession, they expect at your hands the measure of Emancipation, although they will be greatly injured by the sacrifice they have made." Now he did not understand the "although." One man said the Catholics were injured by this concession, and another that the Protestants were injured. But now for the main body of the sentence. How did it appear that the Catholics had made any such concession? It was at least fit to know in what terms they made it, in order to ascertain its validity. Where were the "granting words," as the lawyers called them? They would be found in the statement of his learned friend, Mr. O'Connell, their attorney, properly authorised. He was asked, "Do you conceive that the system of 40s. freeholders, connected as it now is with the law between landlord and tenant, is such as to ensure fair representation?" And he answered, "It is impossible to say that; it has its advantages and disadvantages; it gives to the owners of good estates great influence: that I believe is a great deal in the spirit of the modern practice in Parliamentary representation: it opens the door, however, for considerable frauds; and though I am quite convinced of the frauds, I see great difficulties in altering it. I should be glad, though it is a very crude opinion, if the qualification were *de*." But in the next page, he said, "In my humble judgment it would not be at all right to meddle with them (the 40s. freeholders). I have not expressed any opinion favourable to raising the franchise at all." Was this concession—was it not the reverse? He was asked again whether he thought "that the species of improvement in Ireland, which there

is fair reason to believe exists, has a tendency to place the social system in Ireland more upon a footing of similarity to that of England in that respect, and therefore to correct the evil of 40s. freeholders?" and his reply was "I am entirely of that opinion; I think the progressive improvement in Ireland is such as is calculated to do away a great deal of the inconvenience of the present system, and to render it quite unnecessary, if it ever were necessary, to make any alteration." It would not become Parliament to rush upon the course proposed by the hon. mover; the question should be made the subject of deliberate inquiry. A great deal had been said about the evils of an enslaved peasantry, such as the forty shilling freeholders on leaseholds for life were said to be, and a picture had been presented to the house which was certainly calculated to arrest attention. With much diffidence he ventured to suggest, that the real cause of the evil was not to be found in that circumstance. His reason for saying so was this—that having listened with the most anxious, and he hoped he might say accurate, attention to the speech of the hon. mover, he recognized hardly a feature of the picture which he had drawn of the herds or droves of peasantry being brought up under the lash, it might almost be said, of their masters, which did not apply to other places quite as strongly as to Ireland—in a less degree, no doubt, because the Irish freeholders were somewhat more numerous, and somewhat more dependent on their landlords, than the same description of persons to whom he alluded elsewhere. What would the hon. member for Staffordshire think of the picture which he could paint, without borrowing one false tint or exaggerating a single line of the conduct of great landholders in England? He would suppose that a landlord was desirous of maintaining his interest in a county. He would say to his tenants—be (Mr. B.) would not make use of the names O'Driscoll and O'Shaughnessy, they would only do for Ireland (a laugh), but the tenants should be called Thompson and Jackson; the landlord then would say to Thompson and Jackson—"You shall have a renewal of the leases of the farms on which your ancestors have lived undisturbed for generations on one condition, which is, that you shall qualify yourselves to vote for a knight of the shire by getting a forty shilling freehold." Of course Thompson and Jackson found it necessary to consent to this arrangement. The freehold was a mere cover, but the tenants kept it for the sake of their farms, just as the Irish freeholder kept his bog (a laugh). The counterparts of the O'Driscolls and O'Shaughnessys in England were obliged to do just what their landlords pleased, unless they had the good fortune to have a lease on parchment, unhackled with any condition: and though they were not, as in Ireland, driven up in herds to the poll, yet it would not be easy to find a single instance in which a landlord's dictation was not implicitly obeyed. The cause of this was the natural influence of property, of which he did not complain (hear). This influence existed in England as well as in Ireland, and must exist every where. There was a city in England represented by two of his hon. friends, for which freeholders voted as well as freemen. Certain landlords in the neighbourhood, who had an interest opposed to that of the freemen, granted leaseholds for

lives exactly after the Irish fashion. Let not members, then, run away with the idea that the evil which was complained of was peculiar to Ireland. Much had been said on the subject of perjury. Men, it was stated, came up in droves to vote, as forty shilling freeholders, who were only leaseholders for lives. How, it was asked, could those men afford to purchase freeholds? Why, the landlord gave his tenant a freehold, without consideration of course, but then he received fifty shillings rent for the land. Under those circumstances the tenant took upon himself to swear that the freehold was his own. He knew that the same thing was done in England. One word more with respect to perjury. The commission of perjury was stated to be one of the greatest evils of the present system, and the putting an end to it was one of the greatest advantages held forth as likely to result from the passing of the bill. No man could entertain greater horror of the debasing system of false swearing than he did; but let it not be supposed that the practice was confined to the Irish peasantry, whom it was proposed to disfranchise in order to prevent it. He would say nothing of the Irish grand juries and their presentments—that was forbidden ground (a laugh); but he knew what took place nearer home—not on the part of electors, but of the elected—not in the county of Tipperary, but on the ten or twelve square feet of ground on which he was standing (a laugh): Did it become those whom he was addressing, to declare that they could not contemplate without abhorrence that a man should swear he possessed certain qualifications, which, in fact, he did not possess—to hold up their hands and bless God that in this country people could not be found, as in Ireland, to take the dreadful and sacrilegious oath that they were worth forty shillings a year—to rush down with a bill to save the souls of the Irish peasants (a laugh)? He would not stop to inquire whether the Irish would feel obliged for the attention which the house manifested towards the safety of their souls. They must be convinced that Parliament was extremely anxious with respect to their spiritual concerns, however their temporal matters might suffer under its management; though it might perhaps be suspected, that they would rather desire Parliament should be more careful of their purses, and leave their souls to take care of themselves (laughter). But no; the cry was disfranchise the Irish freeholders, and put a stop to perjury. Let the house take care that they did not disfranchise themselves. He was credibly informed, that certain members of that house—of a former Parliament—of course it could not be of the present that he was speaking (a laugh)—did sacrilegiously make oath in the Lord Steward's office one day, and at the table of the house on another, that they were worth 300*l.* a year in lands and tenements, when some of them were not worth a shilling, and others had no land at all (laughter). Suppose that the Irish freeholders should bring such a charge against the house. He should be without an answer to it. He might, it was true, look big and say, "Do you know what you are doing, in imputing systematic perjury to the members of this house? It is a breach of privilege, and I will send you to Newgate." To Newgate they must go, for he could have no other means of getting rid of the charge (hear,

and a laugh). It could not be denied, that it was the practice of senators to do that for doing which the Irish freeholders were now to be disfranchised. The fathers of hon. members had done so before them, and they their worthy sons, swore perhaps more glibly that they were worth 300*l.* a year in land; nay, they went further—they did what the Irish freeholders could not do, because he apprehended they did not know how to write—they gave in a schedule specifying very minutely the particular county and parish in which their lands and tenements were to be found (a laugh). It did not, then, become the house to be particularly nice on the subject of perjury. It was all very well and proper to express a becoming horror of the crime, but when they came to disfranchise people on account of it, they should beware lest they disfranchised themselves (hear, hear). But the practice in question was not confined to members of that house. He would allude to a profession, than which none was more honourable—he meant that of arms. He had no doubt that the first gallant officer who might speak on the question, would express his contempt of the Irish freeholders for their false swearing. The members of the house who were not connected with the army entertained a more religious feeling on the subject, and talked of the impious nature of perjury; but officers of the army, being men of honour, would in all probability express their surprise and indignation, that any being could be found so degraded as to swear that he was worth forty shillings in land, when in fact he was not. These very officers, however, when the question was about the buying of a commission—did not swear to be sure—that was out of their line (a laugh), but—always declared upon their honour, that they had given no more than the regulation price, though they knew all the time that they had given double. An honourable friend near him informed him that this practice was now discontinued, which he was glad to hear. Hitherto he had only spoken of laymen; but it grieved him inexpressibly to be compelled to state that the Church itself was not without a stain (laughter). It grieved him much to say this (a laugh), and particularly because it would be the means of taking much preaching out of the mouths of those persons whom his honourable friend (Mr. Tierney) once described as people with an odd dress in another house (a laugh). Those reverend persons were in the habit of talking of perjury as a crime not to be heard of without abomination—they declared that truth, sincerity, and frankness were the essence of religion. If, then, perjury were criminal when committed by laymen, it must be ten times more odious when practised by churchmen: and yet what did these reverend persons do? He would suppose that a reverend gentleman was about to be inducted into a bishoprick of about 4000*l.* a year. He declared in the name of God, that he felt inwardly moved—(a laugh)—yes, that he felt inwardly moved at that moment by the Holy Ghost, to take upon himself the office of bishop and the administration thereof, and for no other reason (hear, and a laugh). How all this could go on was a mystery which he professed himself unable to understand; he supposed it was calculated for the end which the parties had in view. He could not, however, help thinking that the members of that house who

took one oath, and the bishops and clergy out of doors who took another, were the last persons in the world who should be so exquisitely squeamish with regard to the conduct of the Irish Catholic freeholders, whom they had all along treated as if they were the only mortals under heaven who had ever been guilty of perjury. He would say nothing with regard to custom-house oaths, because they went to support the revenue (a laugh). A great and flourishing revenue was doubtless a great blessing, and God forbid that he should do any thing to injure it. These, however, were the grounds of some of the doubts which he entertained with respect to the measure before the house, in a moral and religious point of view. He would now revert to his grand objection to the bill as a political measure. It was said that the bill was to smooth the way for Catholic emancipation. If any thing could induce him, —he could not say to overcome his objections to the bill, for he was in a state of ignorance respecting it—but if any thing could induce him to vote for the measure in the dark—the great boon which was held out would be the most powerful bribe that could be offered him. He could not but respect the high authority by which the measure was recommended. It was supported by the Attorney-General for Ireland, who had, who could have, no other object in view than the benefit of Ireland. Hardly inferior to him in authority was the honourable member for Westminster, who possessed no more information on the subject than the rest of the house, but who was inclined to support the bill because he was led to believe that it would tend towards the attainment of the object which, to his own immortal honour, he had so ably and earnestly struggled for—the happiness of Ireland (hear, hear). But there was another authority to which he bowed with great submission. He stated this in the presence of the two hon. members, because he knew that they would be the first persons to render the respect which was due to that revered authority—he meant the rt. hon. baronet who sat near him (Sir J. Newport). That rt. hon. bart. was one of the most disinterested statesmen, whether in the house or out of the house, whether in regard to the interests of the empire generally, or of those of his own, to him dear and beloved, country; and he trusted that his country, grateful for his exertions, not only now, but when he should be taken from them would enrol his name with that of Grattan (hear, hear). When he found the authority of this distinguished individual given unflinchingly and unqualifiedly in favour of the bill before the house, he felt staggered, and almost inclined to say, that he would follow his opinion blindfold. But he was called upon to take a great step in the dark. He had no evidence to show that the measure would be effectual for the object which it was professed to have in view. He had no evidence to prove, that that object was a legitimate one, and he had any thing rather than evidence that it would conciliate the people of Ireland. He had, on the contrary, strong reason to believe that it would split them into schisms, if not alienate them from the question of Catholic Emancipation. Mr. Shiel, in his evidence before the committee, expressed his opinion that the proposed disfranchisement of the freeholders would be submitted to, if Mr. O'Connell were to

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lives exactly after the Irish fashion. Let not members, then, run away with the idea that the evil which was complained of was peculiar to Ireland. Much had been said on the subject of perjury. Men, it was stated, came up in droves to vote, as forty shilling freeholders, who were only leaseholders for lives. How, it was asked, could those men afford to purchase freeholds? Why, the landlord gave his tenant a freehold, without consideration of course, but then he received fifty shillings rent for the land. Under those circumstances the tenant took upon himself to swear that the freehold was his own. He knew that the same thing was done in England. One word more with respect to perjury. The commission of perjury was stated to be one of the greatest evils of the present system, and the putting an end to it was one of the greatest advantages held forth as likely to result from the passing of the bill. No man could entertain greater horror of the debasing system of false swearing than he did; but let it not be supposed that the practice was confined to the Irish peasantry, whom it was proposed to disfranchise in order to prevent it. He would say nothing of the Irish grand juries and their presentments—that was forbidden ground (a laugh); but he knew what took place nearer home—not on the part of electors, but of the elected—not in the county of Tipperary, but on the ten or twelve square feet of ground on which he was standing (a laugh): Did it become those whom he was addressing, to declare that they could not contemplate without abhorrence that a man should swear he possessed certain qualifications, which, in fact, he did not possess—to hold up their hands and bless God that in this country people could not be found, as in Ireland, to take the dreadful and sacrilegious oath that they were worth forty shillings a year—to rush down with a bill to save the souls of the Irish peasants (a laugh)? He would not stop to inquire whether the Irish would feel obliged for the attention which the house manifested towards the safety of their souls. They must be convinced that Parliament was extremely anxious with respect to their spiritual concerns, however their temporal matters might suffer under its management; though it might perhaps be suspected, that they would rather desire Parliament should be more careful of their purses, and leave their souls to take care of themselves (laughter). But no; the cry was disfranchise the Irish freeholders, and put a stop to perjury. Let the house take care that they did not disfranchise themselves. He was credibly informed, that certain members of that house—of a former Parliament—of course it could not be of the present that he was speaking (a laugh)—did sacrilegiously make oath in the Lord Steward's office one day, and at the table of the house on another, that they were worth 300*l.* a year in lands and tenements, when some of them were not worth a shilling, and others had no land at all (laughter). Suppose that the Irish freeholders should bring such a charge against the house. He should be without an answer to it. He might, it was true, look big and say, "Do you know what you are doing, in imputing systematic perjury to the members of this house? It is a breach of privilege, and I will send you to Newgate." To Newgate they must go, for he could have no other means of getting rid of the charge (hear,

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heard, and the bill for disfranchising the borough did not pass through the house in less than two sessions. The bill for disfranchising Helston was before the house for three sessions, and was finally rejected. Yet the house was now called upon, without any inquiry whatever, to disfranchise a whole class of voters. What had our ancestors done still farther back, and in a time of greater authority in constitutional matters? The measure approximating nearest to the one before the house was the Splitting Act, of which Lord Somers was the author. In the first volume of his *Traacts* Lord Somers had left a note containing his opinion with regard to the Splitting Act, and that opinion certainly was favourable to such a measure as the one before the house. But was that act, the Splitting Act, brought in tacked to another question, as a sort of make-weight? No, it was introduced as a part of the legislation of a whole session on the same subject. In the session of the 7th and 8th of King William, the attention of Parliament was directed throughout to the question of parliamentary reform. It was the standing topic of the period. The Treating Act was passed in a few weeks after the Splitting Act. Another bill for regulating elections was discussed stage by stage with the Splitting Act; the bill, however, was not passed into an act, because the King refused to sanction it. That bill contained a clause, which proposed that the practice of voting by ballot should be universally adopted in England. The divisions on the measures to which he had alluded were never carried in houses of less than from 300 to 400 members. This was the sort of legislation which it became the house to follow. Any measure which tended to restrain the liberty of the franchise of the people ought to be subjected to the most careful scrutiny. He trusted that the house would not rest satisfied with being told that the bill had been considered in a committee. That would be any thing but an answer to his call for investigation. That committee was appointed to investigate every subject connected with Ireland; but he wanted the bill to be made the subject of a special investigation. He would defy any member to prove that any question had been proposed in the committee, except in one direction, as to the merits of the bill. The first witness, on whose evidence the bill was said to be founded, stated that another and a better remedy might be found. Under these circumstances was he asking for too much when he demanded inquiry? No two witnesses had agreed on the subject in the committee; and he would venture to say that no two gentlemen from Ireland in that house would be found to give the same description of the fact, or the same opinion as to the remedy. If the Catholic question were carried by itself, it would be received by the people of Ireland as a pledge of conciliation; but if it were coupled with the bill before the house, it would be open to misconstruction. These were the doubts and forebodings which he could not help feeling on the subject. It was said that by agreeing to the present bill in the dark, the Catholic question would be carried. He did not believe that. He thought that those persons who said so were reckoning without their hosts; at all events, he was afraid that they were reckoning without their Lords (a laugh). It was not for him to allude to what passed in another House of Parliament, except as a matter of history;

but he would say, that he had heard passages in another place which gave him an alarm, not only for the good government, but the safety of the constitution of this country, and for the stability of the monarchy as by law established (loud cries of hear), and settled at the Revolution of 1688. The passages to which he alluded had given him so deep and serious an alarm, that he protested before God he could not believe his ears when the news was brought to him that morning. It was impossible, even now, to believe what was stated. The papers were filled with libels that must be false. No man living could believe that a prince of that house which sat on the throne under the revolutionary settlement of 1688, should promulgate to the world, that happen what would, when he came to fill another station —

Mr. *Plunkett* rose to order, and Mr. *Brigham* sat down amidst tremendous cheering, which lasted for some minutes. Silence at length being restored,

Mr. *Plunkett* expressed his regret that he had not taken an earlier opportunity of calling the learned gent. to order; and putting a stop to the discussion into which he was now evidently about to enter. The reason why he had not risen in the first instance was, that the learned gent. stated, that in alluding to the proceedings in another place he could only do so historically; but when he found him adverting to what was stated in the course of that day in the public papers, and designating the person to whom he alluded by a description which could not be mistaken, he felt himself bound, for the preservation of the decency of the proceedings of the house—for the sake of the illustrious person alluded to—and besides, for the sake of that great cause in which, even now, he could not help thinking that the hon. and learned gent. was deeply interested—to prevent him going farther in the heat of the moment into a discussion which he was sure his deliberate judgment would hereafter condemn.

The *Speaker* said, if the inference drawn by the rt. hon. gent. who had last addressed them was correct—if his anticipation of what was coming from the learned member was right, there could be no question that the learned member would be out of order. It was impossible for him to define what was the order of the house more strictly than the learned member had done on taking up the subject which had occasioned the present interruption. It was his business to expect, after the learned member had so strictly defined the order of the house, that he would not depart from what he had laid down. On the whole, he must repeat, that if the anticipation of the right hon. gent. was correct, unquestionably the further proceeding in the course objected to, would be most disorderly.

Mr. *Brigham* doubted not that the rt. hon. gent. meant nothing but kindness to him, and also to the Catholic question. At the same time it seemed to him, that after what had fallen from the chair, he was entitled to say that the right hon. gent. had proceeded somewhat prematurely. He had interrupted him before the proper period had arrived. No member had a right to interrupt another because he himself expected that that other member was going to be disorderly. In the parliament to which the rt. hon. gent. formerly belonged, such a course might have been pursued (a laugh), but it was the privilege of a member

of an English parliament to go on free from all interruption, until he said something disorderly (hear, hear). If he said any thing disorderly, he said it at his peril. He spoke for the privileges of the house; but he also spoke for the consistency, credit, and character of the house. Why, this was like the perjury question. Scarcely a debate took place in which some allusion was not made to, under the simy shelter of the phrase, "another place which it is not allowed me to name." The rt. hon. member, not long ago, alluded to the bishops directly. Was not this base-spirited conduct in the House of Commons? If the members of that house habitually adverted to proceedings in the House of Peers—if he himself had heard the words of the Lord Chancellor canvassed in it not twenty-four hours after the noble lord had uttered them—if the Lord Chancellor himself had afterwards, in the House of Lords, repeated the same words, and coupled that repetition with a reply to the observations which they had called up—if all this had been done, was it not an unworthy course which was now attempted to be taken? Was it not base for the House of Commons to say, "You may attack the bishops—the woolsack—the Lords, collectively or individually, if you will; but if you only glance at the heir presumptive of the Crown, privilege shall rise up against you, even before the words which are to constitute offence can be uttered, a rt. hon. member—himself the most disorderly—shall complain that you are out of order, infringing upon precedent and rule, and this, not because any thing irregular has been said, but—*quia timet*—merely because he apprehends—(great cheering).

Mr. Wodehouse rose again to order, and called upon the learned gent. to explain what he meant by the words, *quia timet* (excessive laughter and cheering).

Mr. Peel put it to the learned gent. himself, whether, apart from the question how far he was or was not entitled to allude indirectly to the subject to which he had referred, it was advisable, in a debate on an important question, to pursue a course of observations not relevant to it and likely to occasion a warmth of feeling incompatible with deliberate discussion.

Mr. Brougham could not disguise from himself that the fact to which he had alluded formed a most important feature in the question before the house. The cry had been, "Carry this bill—carry the disfranchisement of the forty-shilling freeholders—carry this measure, not upon its own merits, but because it will carry with it the question of Catholic Emancipation." This might have done well twenty-four hours ago—twenty-four hours back gentlemen might have expected to carry Catholic Emancipation with the help of the bill now under discussion; but what gentleman at the present moment would say that he had any hope of so carrying it (hear, hear)? The very last plea in favour of the bill before the house—the only plea that ever could have been urged for it—was gone. What pledge had he now, that even if he abandoned his duty as a senator, if he consented to legislate without investigation, to vote in the dark, where the rights and interests of thousands were concerned—what pledge had he, that he should ever receive any consideration, for thus voting without conviction, and betraying the important trust reposed in him (hear,

hear)? Would not the ominous news of the day in which he was speaking, ring through all England, and all Ireland, as the knell of despair in the ears of the Catholics (hear, hear)? Ought not the knowledge of that news to operate in the house? He affirmed that it ought; and the conclusion which he drew from it was this—fair honest warning was given to the Catholics and to the country—they had reasonable and candid notice: want of conscientious and plain frankness in the avowal of an intention was the last charge that he meant to bring against any man (hear, hear); he would not go nearer than that (a laugh); but though this frankness was honest and conscientious, still the Catholics had not less a very avowed obstinacy to deal with; for no monarch who ever sat upon the English throne had ever been prepared for such resistance to his people as was now not only meditated, but openly avowed against them. He (Mr. B.), therefore, gave them this warning; he appealed to Ireland and to Irish members; he did not believe that any thing would carry the great question except a powerful house. Instead of a majority of twenty-seven members, to save the empire from convulsion, he believed nothing could save Ireland and England from new troubles, but a large increase of the majority (hear, hear). Now was the time—this reign was the time (loud cheering). Yet a little while, and it would be too late, the time would be gone, and gone for ever: "Yet a little slumbering—a little sleep—a little folding of the hands to sleep," as they had been doing session after session, and parliament after parliament, for the last twenty years, and they would find intolerance, and despotism come upon them like an armed man, and the opportunity of pacifying Ireland, and of saving England, would depart from their grasp for ever (loud cheers). If he were a lover of discord—(a laugh from some members on the ministerial benches: Mr. Brougham paused a few moments, and then continued): He was not a lover of discord, and those perhaps who considered him so were only not lovers of discord, because they preferred to what they call discord and commotion, the solitude which absolute, unthinking obedience paid to unmitigated despotism. He respected all men's consciences. God forbid that he should not give to their honest differences of opinion that toleration which he challenged for himself. He had said that a want of honesty and frankness was the last charge which he would bring against any man either within these walls or out of doors; but he had lived long enough to know that men who had most of that frankness, if they were not also enlightened men, were often the most perverse and pertinacious antagonists, and that all hope of reclaiming them from their errors, so help them God, was impossible (laughter and cheers). It became them, then, "to set their house in order betimes," and to recollect, that if they carried up the bill, on a former occasion, with a majority of nineteen, and it failed in the House of Peers, then there was ten thousand fold the necessity for taking this last opportunity of bringing the question to a conclusion, because an event might happen—God knew how soon or how late, but God forbid that it should be soon (loud cheers)—when they would have no longer the option. When, even if the bill should be carried—not by a majority of nine-

teen or twenty-seven, but by an unanimous vote of both houses of Parliament, and the voice of the whole country—even if the country streamed with blood, the measure could not be effected except by an inseparable breach with the Crown. Let the house then reject the adjunct, and so put aside that which was calculated only to lead to dissension among the friends of the measure, and to triumph among its enemies. Let them avail themselves, before it was too late, of the opportunity of carrying a measure which might restore Ireland to peace and prosperity, and save England from the perils of a convulsion (continued cheering.)

Sir J. Newport denied that there existed any foundation for the complaint against the manner in which the evidence had been taken before the committee. The witnesses had been candidly examined, with every opportunity afforded for their stating all that they knew upon the subject; and every one agreed as to the miserable condition in which the people who were misnamed freeholders were kept by the existing system. The measure now proposed did not touch the smallest existing right; and to appoint distinct committees to examine into every matter of detail would be endless. He trusted he should have credit for every disposition to carry the main question upon its own merits; but if he found it impossible to accomplish that, he was content to succeed by combining it with other objects.

Mr. Plunkett felt great pain in rising to oppose nearly every thing which had fallen from one of the oldest, and certainly most highly-gifted supporters of the Catholic cause. But he felt that the propriety of his having called that learned gent. to order was confirmed by all that he had uttered since; nor could he help fancying that the learned gent. had interpreted something too favourably for himself the delicacy which had prevented any direct charge of irregularity from being conveyed in what had fallen from the chair. He was fully aware that though it was not strictly regular to allude to what passed in the other house of Parliament, it would be absurd to watch over particular instances of deviation from strict regularity, provided they remained within reasonable and proper limits. But he would call to the recollection of any body who heard his learned friend, whether this was not an occasion on which mischief was about to be done, and on which he was warranted in an interference, which, on another occasion, might have appeared punctilious and pedantic. He did not pretend to be blind to the events of the times, and in one feeling he agreed with the learned member—that there never had been a period when it so fully behoved every honest man in Parliament, and in the nation, to think steadily upon the means of passing the measure of Catholic Emancipation, and of passing it without the delay of a single hour (hear, hear). But he must say to the learned member, that, in his view, the line which he was taking seemed calculated to defeat that object. The learned member had truly said, that if ever there were a period when private feeling ought to be banished, and when unanimity was most desirable, it was the present; but he would confidently appeal to every gentleman who had heard the learned member's speech, whether it had not been peculiarly calculated to prevent that very union which he was so desirous of

effecting. He was somewhat surprised when the member for Louth (Mr. Foster) came forward with arguments, which he thought proper to urge in direct contradiction to his own evidence, under the solemn obligation of an oath. He could not, of course, be supposed to throw the slightest imputation on the hon. member, nor even insinuate that that additional sanction would be more binding on him than his own sense of honour; but it certainly did sound strange to hear his hon. friend put forward arguments completely in the teeth of every thing he had recommended to the committee of the House of Commons (cheers).

The hon. member's complaint against the measure was, that it did not go far enough, but that it should be extended to the disqualification of all bolders in fee; but did the hon. member mean that we should carry our principle to the length of disfranchising a body of men like the yeomanry of England (hear, hear)? And what was the ground upon which the hon. member supported his opinion? Why, forsooth, that certain vagrants had settled in certain commons in Ireland; who, by acts of rapine and *disseisin*, had obtained a title to certain lands. If this were so distressing an event to the hon. member, let him bring in a bill to disfranchise them. He admitted there was a great existing evil, which this measure, as far as it went, was well adapted to remedy; but because a parcel of travelling tinkers had migrated to the bogs of Drumskele, in the county of Louth (loud laughter), he turned round upon us and said, that, unless we so changed our measure, as to render it impossible for any rational man to adopt it, he would resist it with all his might (hear, hear). But, if the speech of the hon. member surprised him, the house might judge of his consternation when he heard his learned friend (Mr. Brougham) adopt the argument; nay, more, misrepresent it, and carry it to a length which the hon. author himself never contemplated (hear, hear). Of course he did not mean for one moment to assert that his learned friend would be capable of wilfully misrepresenting any thing, either here or elsewhere; but, such was the wonderful power of his talent and eloquence, that, whatever argument he adopted, received a force and extent of which its originator was wholly unconscious (a laugh); and when his learned friend felt himself in that cruel and grievous situation which he had so feelingly depicted—impelled by a sense of duty to do that which might be detrimental to a measure to which he was attached; he (Mr. P.) lamented most heartily, that instead of applying all those powers of ridicule in which he was unrivalled, to demolish the argument of the hon. member for Louth, he should have exercised his transcendent abilities to embellish and improve it (hear, hear). That the learned gent. was an ardent friend to Catholic concession, did not rest upon mere assertion, he had given proofs of it too strong for any man to doubt his sincerity (loud cheers). The extent of his services could not be over-rated (continued cheers); but his extreme rapidity of conception and wonderful facility of utterance, had, by unremitting exercise, become a weakness, which had led him into statements, which, in the sober reflection of his cooler moments, his own excellent judgment would disavow (hear, hear). He would appeal to the whole house, whether the learned gent., in his zeal to defeat the measure in dis-

cusdom—a measure of which he set out by stating his entire ignorance—had not drawn upon every topic to awaken prejudices which might defeat the measure they all had at heart. His learned friend said, the object of the measure was to put down perjury, and what right had we to interfere in such a question, when every man in the house perjured himself? And then, in one of his flights, he took a range amongst the army, clergy, and Parliament; but what had all this to do with the question? Even admitting that the qualification for sitting in that house did lead to perjury, and supposing the army and church not exempt from the stain, were they in no instance to cure the evil when they had it in their power? His learned friend had all through his speech assumed as facts what he was bound to prove. He had nicknamed the measure a disfranchisement, and had urged that it would excite the resentment of the Catholics, when he forgot that it did not disfranchise a single individual; did not take away a right possessed by any man in existence. What was there in it, therefore, to justify resentment on the part of the Irish people, or to warrant that very glowing appeal which the learned gent., in his desire for tranquillization, had made to them? Again, the learned member said in setting out, “I do not know what this measure is. My feeling is kind towards it. I do not mean to offer it any opposition:”—Whereas, every thing that the hon. member had done bore as much the aspect of opposition to the measure, and evinced as little of kind feeling towards it, as any course of conduct easily could do. He seemed to apprehend that the Catholics of Ireland would be more alive to constitutional jealousies than to their own immediate interests: and one thing particularly the learned gent. could not endure: let the measure be never so good, he could not bear the connecting it with any other measure; and on no account would he couple it with Catholic Emancipation, because it seemed like giving a consideration for the latter—like a species of bribery: but was not this an overstrained delicacy? Was it not being a knight-errant for the honour of argument and logic? And would not the refusal, on such an objection, to arrive at unanimity, where unanimity was wanted, tell better in a novel, to be called for instance, “*The Delicate Embarrassment*,” than in the business of political life? He thought the measure absolutely a good one; but it was not upon that view alone that he voted for it; for even if he had considered it up to a certain degree injurious, so that it was not cruel or unjust, he should have been contented to support it for the sake of the measure which was to go along with it. The house would judge between him and the learned member: but there was a point upon which he went a step further in opposition to the learned gent. The learned member complained that the measure for disfranchising the freeholders was coupled with the concession of Catholic Emancipation—a measure with which it had no natural connexion. As it seemed to him (Mr. P.) they had an obvious connexion. The doors of Parliament were to be open to Roman Catholics, and it was demanded, in return, that the rush of an immense Roman Catholic mob should be provided against. Certainly, he would not vote for the measure before the house, standing alone, because alone it was not wanted, and

until the Catholics were in fair possession of their rights, he would never consent that the slightest portion of their strength, of whatever description, should be taken from them. The learned gent. thought differently on this point. He complained of being placed in a cruel situation. Certainly, he (Mr. P.) might say that he had never seen any gentleman seem more at ease under cruel circumstances; more able to throw himself pleasantly out of the real question, or draw into it all sorts of entertaining things which were quite foreign to its nature. He would now come to the measure itself. Since the act of 1793—that preposterous act which had begun at the wrong end, and let the rabble into the elective franchise, while it excluded and shut out the gentry—ever since the passing of that act, the country gentlemen of Ireland had deliberately set about trying how many freeholders they could make, for the express purpose of trafficking with them. The valuable property was not the freehold, but the freeholder; the latter was so entirely a man of straw, that if a prosecution for perjury happened to be instituted against him, the freeholder disappeared altogether. In fact, it was the landlord's will and desire, not the man's own, that he should have the power of voting. After having the miserable forty-shilling leasehold made over to him which was not worth forty pence, the wretched being was actually compelled to swear to his freehold at the command of his master, even although any moral or religious scruples of his own might disincline him from doing so. Let the house look at the way in which the elective franchise was exercised in a variety of instances in Ireland by the forty-shilling freeholders. The landlord who had a vast number of them on his estate, when an election approached, sent his agent amongst them. He would not condescend to go himself to solicit their suffrages, but sent his agent to bring, as a matter of course, his four or five hundred into the market. This was done in ordinary cases; but if there should happen to be a contest for the county, then a competition might arise—and it was no improbable circumstance—between the Catholic priest and the Protestant landlord; not as to which should more contribute to the comforts, or improve the consideration of the peasant in a moral or political sense, but as to which should make the most of him. On one side was the landlord, threatening to exert all his power against the poor freeholder if he did not obey; and on the other was the priest, using the powerful influence of religion to induce him to vote for that party by which he thought his own interest would be more promoted. What was the consequence? The peasant voted according to what he was told would be most favourable to his religion; and when the heat of the contest was over, he returned to an incensed landlord, whose first step was to distrain him for the half-year's arrear of rent, and thus not unfrequently to cause his utter ruin—a ruin, too, which was the more dangerous in its effects, because the man was taught to believe that he was punished for what he did for the sake of his religion. Was it at all unnatural that such a system should generate that heat and political animosity between landlord and tenant, which ended in a spirit of discontent and insubordination on the part of the latter? Let the contest end as it might, the forty-shilling freeholder was in no sense a gainer. Vote how he might, his condi-

tion was not improved; but if he voted against his landlord, it was sure to be rendered worse. This statement was borne out by the most incontrovertible evidence before the committee. What, then, would be the injury to the freeholder by depriving him of that franchise which he held only for the purpose of voting according to the command of others? Looking at the proportion of 40s. voters, and those of a higher class, he found that the former were as eighteen or twenty to one of the 20l. and 50l. voters. It was thus that the really independent voters were overlaid by a host of voters who had no stake in the country, and who, in general, only represented the opinions of the landlord on whose property they were allowed to obtain a miserable subsistence. But it was to the abolition of a franchise so abused, that the hon. member for Corke Castle (Mr. Banks) had objected. Fired with a constitutional zeal for the privileges of the people (cheers and laughter),—he attributed to the hon. member that zeal in the sense in which it was understood in the house, and no other—(hear, hear), it was against this system the hon. member stood opposed, and in his *Ruymode* feelings would rather expire on the floor than consent to such a violation of a constitutional principle (hear, hear). He admired the spirit of the ancient barons, thus exemplified in the person of the hon. member; but he did hope to reconcile him to this measure when he informed him that it was not intended to abrogate the rights of a class of men such as generally possessed the elective franchise in this country. There might, he admitted, be some places in England where votes were created in the same manner and for the same purposes as those to which he had been alluding. He was not acquainted with the nature of the towns here, but he was addressing himself to the member for Corke Castle (cheers and laughter), who perhaps knew of places where votes were so created (hear, hear). He did hope to reconcile the hon. member to this measure, when he informed him that it was not intended by it to destroy vested interests. It would operate gradually, and in the course of time a body of sturdy and independent yeomanry would supply the places of those in whose persons the elective franchise was now so much abused. It was the fair inference from the evidence before the committees of both houses, that the measure would give general satisfaction in Ireland. And this appeared even in the testimony of Mr. O'Connell, who approved of the bill if connected with the measure of Emancipation. The member for Waterford had also expressed himself its advocate; and if his learned friend (Mr. Brougham) had consulted the members for Ireland around him, to whose opinions in other respects he was accustomed to listen with attention; if he had for a moment laid asleep his imagination, dispensed with his rhetoric, and trusted to his own mature judgment, he would have drawn a different conclusion from that which he stated to the house. The learned gent. was in ignorance of the subject. He must have known the opinions of those by whom he was surrounded, and that these opinions were favourable to this bill, and yet he had asked where was the bold man who would predict that this measure would give general satisfaction in Ireland. He met the interrogatory of his learned friend; and though he did not profess himself as the

votary of that extreme political courage, which was often more an indication of rashness than firmness, yet, with his conviction of the propriety of the measure—with his knowledge of the general impressions that existed in Ireland as to its necessity, he was that bold man (continued cheers). Coupled with the substantial measure of relief, it would not only conciliate the Catholics, but give increased security to the Protestants of Ireland. And here he complained of his learned friend that in the whole of his excurative speech, he had altogether thrown out of his view what that security demanded. To obtain the great measure of relief to the Roman Catholics of Ireland, has been the object of his (Mr. P.'s) greatest anxiety. He felt that a day should not be lost before the house carried its vote into effect (hear, hear). But strongly as he felt its necessity, he was still persuaded, that if it were carried into effect, leaving an existing distrust in the minds of the Protestants of Ireland, it would be a curse instead of a blessing (hear, hear). Let it be recollected, that in the progress of this great cause, every foot of it had been reclaimed ground (hear, hear). It had made its way gradually—by the triumph of enlightened views and irresistible argument. But since it was first introduced to the consideration of the Legislature, there never was a moment when the result of such continued exertions was more likely to be frustrated—when the cup was more likely to be dashed from the lip on the brink of enjoyment, than at the moment he addressed them—by any indiscretion on the part of any hon. member. No man who felt for the prosperity of Ireland, and the security of the empire, could forget the important benefits which, in the exercise of his powerful talents, his learned friend had given to those great objects. But it was impossible not to see, with regret, that he was labouring this night under an effort which was calculated, though not intended, to defeat the great object for which he had heretofore so powerfully struggled, and by so doing to dash the blessing from Ireland the very moment that she anticipated its fulfilment (hear, hear). There were many other topics connected with this great question, which pressed themselves on his consideration, but he felt that neither his own strength, nor his feelings of respect to the attention with which he had been honoured, would permit him to intrude. He left, therefore, this question on its own importance, to the enlightened decision of the house (loud cheering).

Mr. Banks said it was true that he had opposed the present measure, though it was then in a different shape from that in which it now appeared; and notwithstanding the alteration, he still opposed it, because he considered it a harsh, unnecessary, and unconstitutional infringement of the privileges of the people. He concluded by moving as an amendment that the bill be read a second time that day six months.

Mr. Peel said, that after the excitement raised by what had fallen from the learned gent. opposite, and his learned friend, he regretted he could not hope to attract the attention of the house, as he intended to confine himself to the merits of the bill before them, without reference to any other question. He was ready to admit that there did exist great abuses in the present mode of exercising the elective franchise in Ireland—in the mode of creating

scitless freeholds, and swearing to freeholds which did not exist; and he was prepared to consider any measure for the purpose of applying a remedy to the evil. But, he doubted whether the measure proposed would have any such effect, or rather he was convinced, that as a remedy, it would be most injudiciously and unjustly applied. He concurred in what had been said by the learned gent. (Mr. Brougham), that it would be most precipitate to make such a change without having full information on so important a subject. He did not mean to assert, that if inquiry were gone into, and it could be proved the passing of this bill would strengthen the Protestant interest in Ireland, he would still continue opposed to it; but under any circumstances he should have great hesitation in supporting a measure which would alter the elective franchise. On this principle he had opposed all the motions for reform which had been submitted in that house. He had opposed the bill for altering the present system of the elective franchise in Scotland, or increasing the number of voters; and he had now great doubts of the justice or expediency of any measure for diminishing the number of voters in Ireland. He had before him an account of the number of 40s. 20l. and 30l. freeholders registered in Ireland within the last eight years. It appeared, that since the year 1818 the number of 40s. freeholds registered in the county of Tyrone was 13,000, and the number of freeholds of 20l. and upwards, within the same time, was only 273. He thought it a hard thing, that this immense number should be deprived of the elective franchise without any investigation. His hon. friend (Mr. Littleton) had said that he would not raise the qualification from 40s. to 5l. because it would increase the evil. Was not that in itself an argument for inquiry? It was contended that the object of the bill was to assimilate the practice in Ireland to that in England. The bill could do no such thing. It went only to oblige the freeholder to swear to 10l. instead of 40s.; but if so much abuse already existed by persons swearing to 40s. freeholds which they did not possess, what security did this bill afford against parties swearing to a higher amount? What guarantee did it afford against perjury in the one case more than in the other? It was said that the voter would be obliged to take the oath mentioned in the schedule of the bill; but on looking at the schedule, he found not a word was said about any such oath. But had the oath been framed it would not alter the case. He would now examine how far the measure would affect the Protestant interest in Ireland. Mr. O'Connell stated in his evidence, that this bill would have the effect of lessening the power of the aristocracy, and of increasing the influence of the Roman Catholics. Did this show that the Protestant interest would be benefited by it? In looking at the returns to which he had before alluded, he found that the greatest number of 40s. freeholds, the extent of which had been ascribed as cause of the great discontent and disturbances, was in the north. In Kilkenny there were registered, since 1793, 3760 40s. freeholds, and they sent two members to Parliament, who supported the Catholic question. In the county Fermanagh, he found the number of 40s. freeholds registered in the same period to be 26,900, and that county sent two mem-

bers to Parliament who invariably voted against the Catholics. When he compared those facts, he must have something stronger than the arguments, he had that night heard, to make him believe that the 40s. freeholders were a cause of distress or disturbance, or that the disfranchising them would be an advantage to the Protestant interest. If these freeholders were for the greater part Catholics, it would only show that they acted under the influence of property—an influence which had its weight in this country as well as in Ireland. But if they were Protestants, the house ought to pause and inquire, before they disfranchised them. In the county of Waterford, in which existed, for a time, the greatest distress and dissatisfaction, the number of 40s. freeholders registered since 1793, was 7000. In the county of Antrim, which consisted for the greater part of Protestants, the number registered in the same time was 29,500. If these were Catholics, and consented to return members opposing the Catholic question, there could be no danger to the Protestant Establishment in allowing them to retain the elective franchise; but if they were Protestants, what boon was held out to them for the privilege of which they were thus deprived (cheers)? It was said that this bill, concurrently with the Catholic Relief bill, would raise the Catholic from the state of degradation in which he was now placed. Admitting that argument for what it was worth, it might be an answer to the Catholic for the loss of his franchise; but what answer would it be to the Protestant for the sacrifice of his constitutional privilege, which he had never abused? In the eight counties of Ulster, the most flourishing part of Ireland, he was informed, that the number of 40s. freeholds registered within the last eight years was 190,000 while in 14 counties in the south of Ireland, where so much distress and disturbance had existed, the number did not exceed 168,000. Were not these grave subjects for consideration, before the house proceeded any farther with a measure which was to disfranchise so extensive a portion of the people of Ireland? He would now beg the house to consider what the effects of this measure would be. Was it desirable to hold out a bonus to the multiplication of 10l. freeholds? Would it give Ireland such a yeomanry as its friends would wish to see established in it? It appeared to him that the abolition of the 40s. cottiers would not produce any beneficial political effect, and that the multiplication of 10l. freeholders would only increase the number of miserable farmers. When they were introducing a great political innovation, they ought not to argue from the state of things existing at present, but from the state of things which would exist when the change had taken place. Would not the same ill effects be produced by the fee-simple tenure as by the 40s. tenure? Was there anything in the present bill to prevent a man from erecting a number of houses, and from conveying them in fee-simple to the freeholders? Was there any thing to prevent him from saying to them, "I will give you a house on a certain tenure, but I will attach to it a quantity of land or of bog, which you shall hold on an uncertain tenure, so that whenever an election comes, I may have a hold upon you for your vote?" This bill was not calculated to strengthen the Protestant interest, to assimilate the freehold

tenures in Ireland to the freehold tenures in England, or to remedy any of the evils which Mr. O'Connell had described as arising out of the present system of 40s. freeholds. The bill, it ought to be recollected, was contingent upon the great bill which was to emancipate the Catholics. It was only to take effect under the new circumstances which were to arise in consequence of the passing of that bill, when there was to be an oblivion of all discords in Ireland, and when all classes of his Majesty's subjects were to be united together in peace and amity. If such a result should arise from that measure, the necessity of disfranchising the 40s. freeholders would be gone for ever; and if it should not, this bill would be no security for the Protestant interest, inasmuch as its effects would not be immediate, but prospective. He was unwilling to deprive the lower classes of Ireland of a privilege which, when it was first granted to them, Mr. Burke described as of inestimable value; and above all, he was reluctant to begin his career as a Parliamentary reformer by disfranchising, almost without examination, a portion of the electors of that kingdom. Under these circumstances, he should oppose the bill, being convinced that members were not at present in possession of information which would justify them in giving it their support.

Sir H. Parnell was convinced that no further inquiry was necessary, as there was sufficient evidence before the house to establish the existence of the evil which this bill was intended to cure. There had been several public meetings in that country since notice of it had been given, and at none of them had a single hand been held up against the measure.

Mr. Brownlow had never met with any person who objected to this bill out of doors, who was not actuated by private motives rather than by the public good. He would give the house a case in point to show how the system worked. A gentleman, of large landed property in Ireland, and a man possessed of every virtue save that of residing on his estates in that country, was called upon by the Government to discharge the duty of High Sheriff, in the county in which his property was situated. He endeavoured to get rid of the duty imposed upon him, but not finding it possible, said, "By God, if I am obliged to go to Ireland by the Government, I will make myself an M. P. to vex them." The consequence was, that he took with him to Ireland 2,600 leases, and when he got there, parcelled out his estate into 2,600 subdivisions, so minute, that to live upon one of them would be complete beggary. He now said, "I will walk into Parliament without asking the vote of a single man in the independent county in which I have the honour to reside." The cause of evils like this was the low qualification for the elective franchise—the remedy would be the raising the qualification, and the consequent increase of the independence of the voter. The house would feel no regret at the abandonment of the present system in Ireland, if they could once behold a procession of these wretched 40s. freeholders, as they had been described by those who knew them best, driven on and drilled by a task-master to pronounce the name of their master's nominee, occupying on their route the stalls of kindred cattle dislodged for their accommodation. Were this degrading and odious system once

seen generally, its incompatibility with the freedom of election would be so notorious that every voice would be raised against it.

Mr. C. H. Hutchinson could not consent to make such a change in the elective franchise for Ireland as would impose a sweeping disfranchisement of this nature, upon a mere vote, without the ceremony at least of a previous inquiry. If the precedent were set in Ireland, where was it to stop? Did the people of England apprehend nothing from the result? (Here the hon. member was interrupted with loud symptoms of impatience). He insisted upon his right to be heard, or else he would say that that was a disgraced assembly (loud cries of order). He would not be silenced by clamour; and repeated, that the interruption would not affect him, although it would disgrace those who resorted to such a mode of stifling argument. What, after all, did this bill call for? A remedy which the gentry of Ireland had already in their hands—namely, to abandon the practice of corruption among their tenants, to correct their own disgraceful conduct in creating these 40s. nominal freeholders, and then there would be no ground for such a measure as this (hear, hear). Let that portion of the gentry of Ireland who spread corruption among the people begin by reforming themselves, and then they need not appear before Parliament with such a bill as this, which admitted their own disgrace while it proscribed the most humble part of their own dependents. They first made the poor man their tool, and then they called upon Parliament to make him their victim (hear, hear). But after all, was there more corruption in the elective franchise in Ireland than in England? On behalf of the poor Irish he denied that there was.

Mr. Goulburn said that this bill merely gave a remote security against an immediate danger (hear, hear). He begged not to be considered as generally approving of the system of the 40s. freeholders in Ireland, or as considering that it ought not to be remedied; but they should first consider the extent of the evil, and then the efficacy of the remedy. As to the cause of the evil, there had been a discrepancy of opinion in the committee up stairs, and Gen. Burke had, in his examination, distinctly denied that the 40s. freeholders were the cause of it. The same evidence also showed the importance attached by the freeholders to their elective franchise, as qualifying them to make "a Parliament man." He therefore entreated the house not to interfere with that sense of popular power, without a previous inquiry, the necessity of which was apparent from the conflicting opinions given by several of the hon. members who had preceded him in the debate.

Lord Milnes was as ready as any body to deprecate a good deal of the system of 40s. freeholds in Ireland. It was one of the misfortunes of that unhappy country, that her property was cast into great masses, which were in the hands of a peculiar oligarchy. This bill was a blow aimed at that oligarchy, which, though he confessed himself a part of it, he was anxious to see reduced. But he was by no means certain that the class which followed in the train of that oligarchy, and who were made the instruments of its power, would approve of such a measure as this. At the same time he was anxious to try the great problem of raising an order of yeomanry in Ireland



and so far to lend his aid to this bill—coupled, however, with the distinct understanding that it was to be the price of the Catholic claims, and to stand or fall with the Catholic relief bill. Upon these distinct conditions, he should support the bill in its present stage.

Mr. Grattan could not support a measure which went to disfranchise the people of 32 counties, on account of corrupt practices in a few of them. If it were just to convert the 40s. qualifications into 10l. qualifications, it might by and by be considered just to convert the 10l. into 20l., and so on till all the counties of Ireland were brought into the condition of close boroughs. Let the gentry of Ireland begin the work of reform among themselves, and not introduce this monstrous precedent of popular disqualification.

Sir Francis Burdett: With respect to the measure more immediately before the house, some of his hon. friends near him had opposed it, as being the friends of reform, but he was at a loss to see the connexion between the one question and the other. Sufficient for him was it on this occasion to show, that there was here a conjunction of circumstances in the affairs of Ireland, which were never likely to occur any where else, and which called for the submission to a certain sacrifice to secure the possession of an invaluable boon. The Protestants of Ireland were now generally ready, with a liberality of feeling which did them honour, to amalgamate with their Catholic fellow-countrymen, and to concede much of the prejudices in which they had been so long nursed up. He would not speak of the present as a measure for meeting all the grievances attendant on the exercise of the elective franchise in Ireland; but those who had a lower opinion of it ought to consent to go into a committee. It appeared to him that it was taking up a heavy responsibility, for him or any other member to go against the declared sense of gentlemen who had honourably consented to waive their own interests in favour of a common measure for the common benefit of Ireland. Such public conduct, however fair in speculation, could not be tolerated by any practicable men who preferred real advantages for their country to the support of abstract theories of the constitution. It was asked what was to be got by this measure? He would answer, not as a Catholic advocate, because his intentions reached to both parties—to the general interests of Ireland, distinct from any party—though if he could see any thing incompatible in the interests of Protestants and Catholics, he must, from feelings of natural alliance, side with the former; but seeing an opportunity for combining and uniting them, which was the first of its kind in the history of Ireland, he was ready to embrace the happy moment when prejudices were softened, and when dangers had disappeared; under these circumstances, he could not feel satisfied in rejecting the opportunity of relieving 6,000,000 of people from a state of oppression, in which they were justly dissatisfied; nor could he honestly persist in acting with gentlemen who were prepared to waive the opportunity of bringing about such great practical benefits, because of uncertain and vague conceptions of political excellence which they entertained with regard to other measures (cheers). Suppose all objections urged in detail to be sound, still they ought to

try if they could not be reconciled in the committee. The importance attached to the question of elective franchise must be fallacious if the comparison which had been made by the gentlemen of Ireland, between the 40s. freeholder and the West Indian negro to the advantage of the latter, were in any way correct. He did not take upon himself to say that it was. But those freeholds had been continually represented as one of the greatest evils of the country. Be that as it might, they had obtained a boon if they could exchange them for general emancipation, which would settle the country in peace. He rejoiced in the conciliatory effects which had been produced between the people of the two religions by the examinations before the committee, and concluded by an earnest entreaty to all friends of Emancipation, to forget their differences upon the question before the house, for the sake of succeeding in that object.

Mr. Denman wished to justify his adherence to those principles which, with pain and surprise he had witnessed it, the hon. bart. now disowned, though they had for many years supported them together. He could not be persuaded to look upon this in the light of a trifling sacrifice to obtain a more valuable blessing. It appeared to him that the inference attempted to be drawn was, that if the Catholic disabilities could be removed, it mattered not under what system Ireland should be governed. He would make no such concession. The question did not belong to Catholic more than Protestant, nor to Ireland more than to England. It belonged to them all, and they ought to view it with equal alarm. He was not to be told that they could form no precedent for invading the franchise of England, because he knew on what slight pretences things of this sort were raised into precedents. Why did not this subject commence with a discussion in a committee? He rejected the idea of this and the Emancipation bill being measures inseparably united. He complained of the insufficiency of the returns to show how many votes there would be left, and how many disfranchised under any one of the three rates proposed for the standard of qualification—five pounds, ten pounds, or twenty pounds. They were all in turn opposed with equal vehemence by those who supported any one of them. There was nothing clearly made out to satisfy him. The standard of forty shillings might be bad, but the evidence did not establish what was good. His learned friend, Mr. Blake, preferred twenty pounds. On being asked his reasons, he said that he understood that property was the constitutional basis of representation, and therefore the more it was condensed the better, and the fewer the numbers the more constitutional. In what book or in what authority was this found? He had always understood the constitutional basis to be the payment of direct taxes to the state. Had the bill stood by itself, would any man have been able to give the house a reason why it should pass? As to the idea of effecting a bargain of emancipation by it, to whom was the benefit of the contract to accrue? It was no bargain as between Protestant and Catholic; it was no bargain as between high and low Catholics. It had been supported by aggregate and county Catholic meetings; but there was no statement of the number of forty shilling freeholders who voted for the destruction, if

they voted at all, of their own rights and liberties. He denounced the measure as one of those expedients devised by enemies to thwart the general question. It was of a piece with the *veto*, with the question of long oaths, and other means of cajolery. What did the *veto* do in 1809, besides securing the Chancellorship of Oxford for Lord Grenville? If he could admit the danger threatened, he could not admit the safety of the measures proposed. They were any thing but securities. And was this a time to yield them, when the fortress of bigotry was stormed, and the picked men of the garrison were ready to surrender? The scales and slims had confessedly fallen from the eyes of many adversaries of Emancipation. Could less have happened, supposing those gentlemen to be sincere, if this bill had never been heard of?

Mr. *Abercrombie* expressed his firm conviction that in supporting this measure, he was stripping an oligarchy of a power that they ought not to possess. He should vote for it under the impression that by so doing, he should deprive various classes of the Irish gentry of the means of jobbing—a system which was most disgraceful to them, and most ruinous to the country. It was a system that must ruin the independence of general elections, and therefore he should support the measure. But above all he would support it, because if that system continued, it would ultimately exclude altogether persons of the middling classes of society from all share in elections. He appealed to all those who were best acquainted with Ireland and Irish affairs, whether the forty shilling freeholder was not the raw material out of which the Irish gentleman manufactured all his jobs. They who had not been in the southern parts of Ireland could have no conception of the miserable dependence in which these forty shilling freeholders existed, on the estates of their landlords. Their whole existence, indeed, was attached to the wretched acre which they held; and it might easily be supposed that they were the mere tools of the owner of the land. Should this bill pass, it was his conviction that it would be the greatest boon to Ireland which the United Parliament could confer upon her (hear, hear).

Mr. *Lambton* did not believe that the forty shilling freeholders were really that description of persons they had been represented to be. He believed them to be much better than they were made out; and though by this bill they themselves were not to be disfranchised, yet their children would be; and following that principle which had ever guided his public conduct, he never would consent to any measure having for its object a limitation of the elective franchise of the people (cheers). He had no confidence in the quarter from which this measure came. He was not alluding to his hon. friend, the member for Staffordshire, but he distrusted the parties who, he feared, might have influenced, and who now most strongly supported the measure.

Mr. *Littleton* was only anxious to declare that his hon. friend was quite mistaken in supposing that he had acted in this matter otherwise than as a volunteer; no individual having advised with him on the subject, or influenced him in determining to introduce this measure, although he had availed himself of the best information he could obtain in its preparation.

The house then divided.—For the amendment,

185—For the second reading, 233.—Majority for the second reading, 48.

### *Catholic Clergy.*

FRIDAY, APRIL 29.—Lord *F. Leveson Gower* rose for the purpose of moving a resolution, that it was expedient to make a provision for the maintenance of the secular Catholic clergy of Ireland. The measure which he was about to propose appeared to him to be inseparably connected with the welfare and good government of Ireland. It had been advocated by men whose authority still possessed the weight it deserved, although their exertions were now lost to their country for ever. The names of Pitt, of Castlereagh, and of Cornwallis were found among the first of those who had recommended a provision for the Roman Catholic clergy. He had great pleasure in finding that the opinions which he entertained on this subject were backed by a learned gentleman (Mr. L. Foster), whose laborious research into all matters connected with the affairs of Ireland was every where duly appreciated, and by Mr. Grattan in the debate of 1812. The objects which he proposed to obtain by these resolutions, were to connect the whole body of the secular Catholic clergy with the state, to effect an improvement in the condition of the Catholic peasantry, and to provide for the security of the Protestant church (hear). It was not his intention to propose any increase in the body of parochial clergy; and in point of emolument he should leave them nearly as they were. When the sources from which the income of the clergy was derived were considered, he was sure that it could not be doubted that it would be highly expedient to substitute a fixed and periodical stipend for those uncertain sources. It might be objected that one effect of this would be to cut off the connexion of the clergy with their flocks. In order to meet this objection, he would remind the house, that in the evidence of a distinguished prelate of that body, it was stated that one fourth of the incomes of the priests was derived from the offerings of their parishioners on certain solemn festivals in the church. These it was his intention still to leave untouched, that a lively remembrance might be kept up in the minds of the parishioners of the spiritual services of their pastors, and that they might upon such solemn occasions testify by their contributions to his support in this world, the sense they entertained of the value of the priest, who pointed out to them the road to salvation in the next. The evidence of Mr. O'Connell showed that the ranks of the clergy were filled from the lower orders of the people. He would not insult, by the expression of any aristocratical feeling, so meritorious a body, because such a disposition must be contrary to the first principles of Christianity, but it must surely be a matter of reasonable regret that any circumstances should occur to prevent a portion of the higher classes of the community from forming a part of the Catholic clergy. The necessity of a competent provision was also strikingly enforced by another consideration. Was it fit that in times of danger and popular tumult, the clergy should be so entirely dependent upon the people, that any attempt to discharge their duty to the Government must be followed by the loss of their

means of subsistence? When the storm was up and the vessel was a wreck, should they be lashed to its shattered remnants and exposed to all the fury of the tempest? If it were supposed that in the plan which he proposed, he had any intention to undermine the faith of the Catholic clergy, he utterly denied and disavowed it (hear, hear). Much as he wished that no difference existed between the faith of the church of England and the Catholics, he would take no such means to unite them. He would appeal from theory to practice; the Presbyterian clergy in the north of Ireland, than whom there was not a more respectable body, were stipendiary, but upon them no undue influence had ever been exerted by the Government. If the cry of economy should be raised—a cry so successful in exciting the passions of a commercial country like this, but which was often disgraceful to the individual, and a curse to the nation—he trusted the house would not echo it, that the nation would not keep it up, and that the charm would lose its power, let the magician be who he might (cheers). He found that the number of Catholic priests in Ireland was about 1,000, and that of the coadjutors or curates nearly the same, making the whole estimate of parish priests about 2,000. He proposed to divide these into three classes, in the same way that the Presbyterian clergy were divided, and to allot to 900 of them an annual stipend of 200*l.* each; to 800, a stipend of 120*l.*; and to 1,000, one of 40*l.* To the four archbishops, 1500*l.* per annum; to 23 bishops, 1,000*l.*; and to 300 deans, 300*l.* each. The noble lord concluded by moving, "That it is the opinion of this house that a provision should be by law established for the maintenance of the secular Roman Catholic clergy, exercising their functions in Ireland."

Col. *Bagwell* seconded the motion. He professed the most profound respect and the warmest veneration for the Reformed Church of England; but, Protestant as he was, he could not forget that to the Church of Rome we were indebted for the transmission of the Holy Scriptures and the elements of true religion, through ages of ignorance and darkness.

Mr. *L. Foster* objected to the measure proposed by the noble lord, on the ground that it would increase the power of the Catholic church without making it more dependent on the Government than at present. It was the principle of the Catholic church to increase its influence, and to put down all competition. It was said that when Catholics should be admitted to Parliament they would lose their distinctive character. He did not believe that. He was of opinion that it would always be their object to advance the power of the Catholic church. On this point he might direct the attention of the house to the conduct of those members who represented the West India interests. On subjects in which their interests were not involved, they could not be recognized as a body of men possessing a community of feeling; but the moment any question arose which affected their West India interests or prejudices—let it relate to the coffee of Egypt, the sugar of Bengal, the cotton of Macao, or the brandy of France—they formed a compact phalanx, and acted as one man. He would never consent to a stipend being paid by Government to the Catholic

priests, unless it were to the exact amount of that which they now received from the peasantry, but which they should then be called upon to abandon.

Mr. *Hume* thought that this measure was in no way connected with the question of Catholic Emancipation; and the evidence was conflicting as to the probability of its conciliating the Catholics. He could not consent to the payment of the Catholic priests unless the English Dissenting ministers should also receive payment. The noble lord had given no information as to the manner in which his measure was to be carried into effect. It did not appear whether an annual sum was to be voted, or whether a large grant was to be made at once; nor was it stated from what fund the money was to come, nor who was to have the distribution of it (coughing). Without information on these points, he could not consent to such an innovation as that proposed. The Protestant Dissenters in Ireland amounted to between 7 and 800,000, and their ministers to between 3 and 400. The whole provision which Parliament made for them was 13,844*l.* When this was the manner in which the Dissenting ministers were treated, it was too much to call upon Parliament to give so large a sum as 280,000*l.* for the Catholic church. The hon. member concluded his speech by moving the following amendment—"That a select committee be appointed to inquire, whether the Catholic Priesthood, and all Dissenting Ministers from the established Church of England and Ireland, and the Catholic Priesthood and Dissenting Ministers from the established Church in Scotland, should be paid annual stipends; and to consider and report to this house what sums, if any, should be paid to each set, and from what funds and under what particular stipulations the said payments should be made."

Mr. *W. Banks* thought that money must absolutely be burning in gentlemen's pockets, that they were so ready to grant 250,000*l.* a year to people who rather desired not to receive it. And in what a situation did such a boon to the Catholics place all other Dissenters from the Established Church! The Protestants of the kingdom would be paying two classes of clergy—to wit, the Catholic and the established; but the Dissenter would have to pay three sets—the Established, the Catholic, and his own. He should look upon the success of the present measure as an incident after which the established Church of England could hope to exist no longer.

Mr. *T. P. Courtenay*, though a friend to Catholic Emancipation, objected to the present measure, as tending to undermine the Established Church. It was his humble opinion, which he had been some years in forming and other years in determining to act upon (laugh); which he offered to the house with great deference, but still with the confidence of sincere conviction, that the time was come when we ought to alter our own articles (hear). If hon. gentlemen would take the trouble to read over the Thirty-nine Articles—(loud laughter, and cries of hear!)—He regretted the levity which the house had exhibited on this occasion, and as he was likely to be the means of having so serious a subject treated with ridicule, he should close his observations (cries of go on! and hear). When the house treated as ludicrous and chimerical the bare possibility

of reading the Thirty-nine Articles of our Religion, was not this of itself a strong confirmation of the proposition he had advanced (hear, hear)? He would almost venture to say, that a very great majority of those he was now addressing never had read the articles of their religion (a laugh, and cries of hear). Of this he was quite certain, that the most religious parents, who were desirous of bringing up their sons in the most exemplary manner, were not in the habit of inculcating religion through the articles of the church. The greater part of them related to things not at all necessary for any one to believe (loud cheers).

Lord *G. Cavendish* supported the measure, because it would tend to increase the respectability of the Catholic teachers, and thereby aid the course of education, and of moral improvement in Ireland. Being convinced that it was only to the progress of instruction that we could look for a reformation in the habits of the Irish people, he would vote for the grant to the priesthood; but he trusted it would be accompanied with the great measure of Emancipation.

Mr. *Peel* imagined all parties would agree in treating the present measure as quite distinct from the proposition for removing Catholic disabilities; and rather regretted than any attempt had been made to connect the two questions together. It was proposed, without (as he thought) any explanation, for the house broadly to declare that it was expedient to provide by law for the future maintenance of the secular Catholic clergy. We were to pay 250,000*l.* a year to the Catholic priests, and to have no power in the nomination of them—they were to receive that large amount of money from the Government, but to be in all respects independent of it. He did not say that it was desirable that the Crown should have so much additional patronage; all he wanted was, to show what would really be the effect of the measure. Looking at such a grant only constitutionally, apart from any theological consideration, it was at least one upon which it behoved the house to pause for information. It was said that the Presbyterian body in the north of Ireland stood exactly in the same situation in which it was now proposed to place Catholics; but he denied the parity of the cases. The Moderator of the Synod of Ulster distinctly stated in his letter, the manner of the connexion between the Presbytery of the north of Ireland and the Government; and his statement amounted to this—that there was scarcely any difference between the Presbyterian doctrines and those of the Established Church. Certainly, if the bill before the house did pass, he should agree with the hon. member who had lately spoken, that the thirty-nine articles ought to be got rid of; for, after passing such a measure, no man could ever again be called to subscribe to them (hear, hear). The hon. gentlemen opposite smiled; he understood what was meant—it was intended to allude to what he had already done with respect to the college of Maynooth. But the cases were widely different. We objected to the education of the Irish Catholic priests abroad, and therefore we founded a seminary for them at home. But this was not like providing 1,000*l.* a year for every Catholic bishop; 1500*l.* for archbishops; and an income for every clergyman, of what-

ever degree. He doubted, too, how far it would be possible for the house to make such an arrangement without communication with the Pope; Government might probably think some alteration in the Bishop's oath advisable; and Dr. Doyle, who was of opinion that this might be done, thought that if we were to pay the Catholic bishops of Ireland 1,000*l.* a year, it was too much that the Pope should have the nomination of them. At least, there ought to be some stipulation that he should institute the person recommended to him from Ireland. We had made no provision for the Episcopalian clergy of Scotland, who were of the same religion as the Church of England; and not having done so, he could not see why we should commence our provision for any other church by giving a stipend to the Catholic clergy. If this bill passed, the Dissenters would see the Protestant Established Church provided for by tithes, and the Catholic clergy by taxes, to both of which the Dissenters would be obliged to contribute; while, at the same time, no provision was made for them. It would be contrary to the spirit of the revolution to select any religion distinct from the Protestant Church, for a permanent provision and establishment. Considering the want of sufficient information, it would be premature to press the measure, and he had no doubt that if so pressed, hon. members would have occasion to repeat their precipitancy.

Mr. *C. W. Wynne* thought that one of the great recommendations of Catholic Emancipation was, that it was to be accompanied by this measure. His hon. friend had asked why the two measures should be connected? He answered, the connexion was most politic, and had been supported by Mr. Pitt, the late Marquis of Londonderry, and others. He thought that man must be an idiot who could imagine that Ireland would be fully tranquillized by Catholic Emancipation, unless it were accompanied by such arrangements as the present. The great objection which had been made to the bill was, that it ought not to be extended to the Catholics, unless also to the dissenting clergy. But the cases of the two were different. The Catholics were smarting under the influence of penal laws, which even when repealed would leave an impression that could not be removed all at once, and it was most important that there should be some link to connect the future teachers of that people to the state (hear, hear).

Mr. *E. Martin* said, that this measure was not, as seemed to have been supposed by some, called for by the Catholic clergy, who would lose by it a great portion of the influence which they now held over their flocks in Ireland, and if they consented to any measure which would have that effect, it was because they felt it would forward the general measure of Emancipation. The Catholic priesthood at present received more from their flocks, than they would be likely to get by any pecuniary arrangement of the nature of that now proposed. He would support the measure, because he wished to take from the Protestants that which he considered so just a reproach to them. The Protestants at present, in their vestries, assessed the Catholics, without allowing them a vote on the occasion, for the payment of their church rates and other matters; if this measure were carried, though the Ca-

tholics would be assessed for the support of the Protestant church, the Protestants would also be taxed for the payment of the Catholic clergy (hear, hear).

Mr. *Spring Rice* said that he would support the bill—first, because the Catholic clergy of Ireland were more powerful than the clergy of any other communion, except those of the Established Church, and therefore it became more desirable to place them in an amicable relation with the state; and, secondly, because the population of that persuasion were the poorest in the empire, and consequently the least able to afford a contribution to their own pastors, being obliged by law to support the religion of the state (hear, hear). He did not concur in the opinion—"better no religion than the Roman Catholic;" on the contrary, though he did not admire it, because it was Catholic, he respected it because it was Christian (hear, hear); and therefore it was, that he wished it the power of communicating religious and moral instruction to those who were attached to that form of faith. He knew parts of Ireland the population of which were actually banished from Christianity, because, from their absolute poverty, they were incapable of paying the very poor stipend to a religious pastor of their own communion. As a friend to freedom, he should ever deprecate too close a connexion between the government and the Catholic clergy; but at the same time, he was most solicitous to have such a relation between that clergy and the state, as would lead them to look to the latter with reverence and affection. In the *regium donum*, under which the clergy of the Presbyterians of the North of Ireland were remunerated, he saw a full exemplification of the facility of such a relation being preserved without danger. He would appeal to the Irish members of that house, whether in their capacity of magistrates and administrators of the law, they had not uniformly experienced the most active and zealous co-operation from the Catholic Clergy in their respective counties? To remunerate such men by a fair and constitutional grant, must be productive of the highest benefit.

Mr. *Goulburn* opposed the motion, because he thought the house was altogether without proper information on the subject. He saw every thing in this resolution that was calculated to excite dissension and dissatisfaction among the clergy whom it was intended to benefit. He believed, that just in proportion as the house increased their emoluments, would it diminish the confidence which their flocks at present reposed in them. If they agreed to make this grant to the Catholic clergy, they were bound, in point of principle, to make a similar grant to the clergymen of every other sect which dissented from the Established Church. An hon. friend of his had said, that he would make this grant to the Catholic clergy because he considered them dangerous to the state, and that he would withhold it from the Dissenters because he knew them to be harmless. Was not this holding out to the Dissenters an encouragement to be seditious? Was it not saying to them, "You are now quiet and submissive, and therefore not worth remunerating; but become turbulent and disaffected, and we will immediately provide for you" (hear, hear)? Such a defence of

the present resolution was utterly untenable: the expense of such a system would be found serious, when there were added to it the sums necessary to provide for the clergy of the Dissenters. So far from harmony being promoted between the Protestant and the Catholic Church, a great jealousy of each other would be excited among them, when they found themselves mutually placed under the protection and support of the state.

Mr. *Calcraft* remarked that it was extraordinary, that the two ministers, who from the situation which one of them had filled, and which the other was now filling, ought to have the most information on every subject connected with Ireland, were the most forward in stopping the improvement of that country, on the ground that the house had not sufficient information. On a proposition of this nature, where the union of the empire and the happiness of the people were so materially concerned, it was trifling to talk of the expenditure which would be incurred by acceding to it. The sum necessary to defray it might be saved by reducing several improper grants; and nobody would object to apply any saving so made to such a useful object.

Mr. *Cressney* said, that he would have no objection to see the Catholic clergymen properly remunerated; but would never consent to pay that remuneration out of the taxes of the Protestants of England (hear). He thought that the Catholic clergymen might easily be paid out of the funds of Ireland itself. Why should great families be allowed to send their relations and their tutors out to Ireland, and to quarter them upon the rich livings of that country? He never would consent to make any provision for the Catholic clergy of Ireland, unless it were made from the property of the Established Church (hear, hear).

Mr. *Brougham* felt no difficulty from want of information upon this subject, because it was not encompassed by any of that obscurity in which the measure relative to the forty shilling freeholders appeared to be involved. The facts relating to it lay in a narrow compass, and had often been presented to the consideration of Parliament. The principles on which it must be decided were familiar to them all: for he might say, that often as the Catholic question had been discussed, from the time when Mr. Fox first brought it forward twenty years ago, down to the present moment, there had never been one occasion in which it had been discussed without the necessity of a provision for the Catholic clergy being urged, without such a provision being admitted to be germane to the grand question, and almost inseparable from it. The generality of the words, in which this motion was couched, formed one of the grounds on which he supported it. His hon. friend who had spoken last, might have voted for it consistently with the principles by which he appeared to be animated; for it prescribed no manner of proceeding, it pointed out no funds from which this remuneration was taken, it only recognized the principle that it was expedient that the state should, in some way or other, make provision for the Catholic clergy. With respect to the possible increase to the influence of the Crown from this measure, he must now say that all his alarm had ceased (hear, hear). He considered the granting to the Crown the power of direct nomination,

or a vote on the appointment of priests, either directly or indirectly, to be measures which planted in each parish of Ireland a hired officer of the government; and he repeated, that if those measures had formed part of the present proposition, he should have been among the first to hold up his hand against them. They were not to be found in it; and he therefore felt himself justified in giving it his support: respecting the alleged necessity of providing for the ministers of other sects, if we provided or those of the Catholics, he contended that there was neither consistency nor sound principle to bear out such necessity. In point of consistency, this grant would not give to the Catholics a greater sum, if regard were paid to their numbers, than was now given to the Presbyterians by the *regium donum*. It was necessary to support the grant, because the clergy were the natural instructors of the people. We had adopted at home the principle which acknowledged the propriety of educating the people. Let us proceed onwards in the performance of our duty and adopt the same principle with regard to the people of Ireland. He must, before he sat down, protest against one position which had been set up in the course of the debate. Nothing could be more dangerous to the great question of Catholic Emancipation than to admit that we gave this provision to the Catholic clergy as a security. If we gave it as a security, we must admit that danger existed. He denied the danger; he denied the security. He considered this resolution, to be entirely foreign to the great question of Catholic Emancipation. Grant that to the people of Ireland, and it would allay all dissensions and disturbances—it would give us their hearts, and in giving us their hearts, it would secure our dominion over them, so that a world in arms should not be able to wrest it from us (hear, hear).

Mr. Pakenham concurred in thinking that it was not dealing fairly with the Catholic question to consider this measure as a security against danger likely to accrue from conceding Catholic Emancipation. The hon. member for Aberdeen had said that he was sensible of the injustice and impolicy of leaving 6,000,000 of people without an adequate provision for their religious instruction. He thought that this instruction ought to be paid for, but all that he objected to was the mode of paying. Now he (Mr. P.) conceived that the proposed mode of paying them was one of the best that could be conceived; the provision made for the Catholic church by the Protestant community, would, in taking away one of the Catholic's most plausible objections to the Protestant Church, act as a buttress to support the establishment.

The house then divided—For the motion, 206—Against it 102—Majority for it, 43.

### *Catholic Claims.*

FRIDAY, MAY 6.—The order of the day for the house resolving itself into a committee of the whole house on the Catholic Relief bill having been moved,

Gen. Gascoyne said, that he could not avoid viewing this bill in conjunction with two other measures now before the house. They all appeared to be component parts of the same system. With respect to the first of these bills,

which was intended to contract the number of voters in Ireland, if the principle were once conceded, he knew not where it would end. It appeared to him to be a most dangerous precedent. Then came the bill for the support of the Catholic clergy. When application of this kind was made for the appropriation of the public money, it was, as a matter of form, necessary to procure the royal sanction. They had not, however, been apprised of any such assent having been given, and if not, there would be an end of one of the wings of the Catholic bill; one flank company would have retreated without firing a shot. He was convinced that 7-10ths of the population of this country were hostile to the bill now under consideration. The demise of that house must take place in a very short time. He did not make this remark because he was at all afraid of a dissolution (hear, and laughter): he had no apprehensions on the subject, but it was attended with a great deal of trouble, and that trouble he and all men were desirous of avoiding. Would not a new Parliament be likely to call upon ministers to show that they were borne out in what they had done? In his opinion, if there were any appearance of this measure being carried through the Lords, it would become the duty of His Majesty's Ministers to advise a dissolution of Parliament forthwith. Nothing he conceived, could be more unpopular in this country than the introduction of a bill for the purpose of granting support to the priests. From every thing he heard and saw, he was thoroughly satisfied that if the house permitted the bill for the support of the priests to pass, it would be attended with very serious consequences. The conduct of the Attorney-General for Ireland, on this occasion, surprised him much. He had called on the house, very properly, to suppress the favourite Association of the Catholics. But it was most extraordinary that he should, almost in the same breath, when he moved the third reading of that bill, the object of which was to put down the organ of the Catholic body, introduce another, admitting to the highest privileges in the state the very persons whose conduct had excited so much apprehension. How could his learned friend reconcile this? He wished to know to what extent it was intended they should go? If the people of England were reconciled to this bill for emancipating the Catholics—if their feelings could be ascertained, and those feelings were favourable to it, then the measure might be passed with safety. But, as they knew not what the real feelings of the people were, he called on the house to pause. If they did not, he feared they would have some reason to rue their hasty proceeding. It was not, however, his intention to oppose the motion for going into a committee.

Sir T. Lethbridge said that this bill went to repeal the oath of supremacy which every member of that house had taken. He did not doubt that the terms of that oath were in the recollection of every person who heard him; but he would nevertheless request that the clerk might be ordered to read it over (the clerk here read the oath of supremacy). If, then, it should turn out that the bill before the house would lead them to violate the oath which had been just read, he need not say what would be its effect on all hon. members who looked at this subject in the same way as he did. There were two points of view in which the question

might be contemplated. The first was, that every member who was returned to that house as a representative of the people of England, entered it upon the condition, implied if not expressed, that he would preserve the British constitution in Church and State, as it had been handed down to our forefathers. This condition no man was at liberty to get rid of. The persons by whom these hon. members had been returned were well aware of the nature and effect of this oath, and were neither so ignorant nor so careless about it as they had been represented to be, but were sensibly alive to the course which was now proposed to the legislature of the country. The other point from which he viewed the subject, was, that by a direct enactment, the house would recognize the authority of a foreign potentate. It was proposed to form a board of Catholic bishops, who were beforehand engaged by a solemn oath to obey in all respects the authority of the Church of Rome. This was an objection which by no argument could the house get over. Arguments might be used against it with so much ingenuity, that he should find it difficult, perhaps impossible, to answer them; but he denied that any man could controvert the fact which he advanced. There was in the very outset of this bill a curious anomaly: it talked of the preservation of the Protestant establishment, and yet, in the subsequent parts of it, proceeded to provide for the return of Roman Catholic members for Ireland. Now, in the Union with Scotland, there was a clause directly against the return of any such member. This was a point which the house could in no way get over. The preamble asserted that the declarations in the oath of supremacy, related only to matters of spiritual and religious belief, and not to the allegiance of his Majesty's subjects. The truth of this statement could not be proved. If it could, why were Catholic members not now sitting there? Why was it necessary to legislate for them at all? Did they not profess—and he gave them credit for the zeal and sincerity with which they did so—their faith in the supremacy of the church of Rome, and did they not vow to continue that faith to their death? Their allegiance, then, was divided. But the allegiance of the subjects of these realms ought to be entire, and was due to the sovereign on the throne, who was acknowledged to be the supreme authority in all matters, spiritual as well as temporal. What was the objection of the Catholics to the oath of supremacy? It was only for one word, to which they could not agree. And did the oath proposed by the bill before the house—which he did not quarrel with because it was rightly worded—obviate this objection? Had any of those persons whose evidence had been taken as conclusive authority in the committees, been asked if they would take this oath? He believed that no honourable and conscientious Catholic could be found to take it. He had read through the evidence of Dr. Doyle, and very heavy work he had found it (a laugh). That rev. prelate had been asked if he had taken an oath of obedience to the Pope of Rome, and he answered that he had. He was then asked if he recollected the contents of that oath, and he answered that he did not. It appeared to him rather extraordinary that a person of his high character in the church to which he belonged

should not know this. He had, however, procured a copy of an oath, which he believed was taken by the Catholic clergy. The persons taking it swore to pay entire obedience to their Lord the Pope, and to assist him in the recovery of the papedom and the royalties belonging to it against all men—to support his authority to the utmost of their power, and as far as was possible to make other persons do so, and to receive as conclusive the decisions of the holy canons, and of the Council of Trent. How was it possible that persons who had taken this oath could, with a safe conscience, substitute for it another, which in every word and every sentiment was opposed to it? This consideration, if it were the only one, was, in his opinion, so important, that it ought to influence the house against going into the committee. With regard to the commission of Catholic bishops; in all the previous bills of a similar nature security had been provided, by the introduction of Protestant councillors among these bishops; but here there was to be no control over them—not even by the power of the sovereign himself. Was this constitutional? Was it safe or expedient that this power should be vested in the hands of Catholic bishops, who had already taken an oath of unlimited obedience to the Pope? Was this like the wise and cautious proceedings of our forefathers, who, after they had established the civil and religious freedom of the nation, provided a sufficient security for their future preservation? It was said by those who were favourable to this measure, by way of inducing others to adopt their view of the subject, that the Catholics of the present day were different from those of other times, and that they had been so much altered that they might now be safely admitted to a full share in the advantages of the constitution. If a careful examination were made into the character of the Catholics of Ireland, of Spain, and of France, at the present day, he believed the house would come, as he had done, to quite a contrary conclusion. Although the evidence before the committees had been carefully worded, and very ably given, let any dispassionate man look at it, and say if the bearing of that evidence was not all one way. If it were not, he (Sir T. Lethbridge) had read it ignorantly, and with prejudice, and had come to an erroneous conclusion. Lest he should be said to misrepresent, he would refer to some parts of that given by Dr. Doyle. With respect to the right of the Pope to nominate to benefices, he said it had been enjoyed since the time of the Stuarts, and that it could not now be taken from his Holiness. This was saying a good deal: but he goes further, and said that any interference of a Protestant Monarch would not be admitted by the Catholic church. There was also a passage in a letter by Dr. Doyle to the Secretary of the Kildare Catholic Rent Association, which had been written coolly and deliberately. He said, "the spirit of the Catholics had not yielded under oppression, but like the ruins of their ancient greatness, which overhung that town (Kildare), retained their venerable and majestic appearance, and reminded the beholder that it had once been great and free. Although now it was enslaved by the tyranny of a worthless and base faction, it could spare from its competence, or even its wretchedness, a part of what escaped the hand of the despoiler."

This was the cool expression of the feelings of the right reverend doctor. In the recent instance of a petition which had been prepared at Wetherby, a Roman Catholic gentleman of great wealth and importance had alluded to the profanation of the churches and abbeys, once Catholic, and which were now devoted to the Protestant worship. Could it be doubted, that if this gentleman should be returned to Parliament, he would propose or promote any measure which should restore things to their ancient state? The hon. member then quoted a passage from the preface to the Roman Catholic version of the New Testament, written, as we understood, by the reverend Dr. Troy in 1816, where the burning of all heretical books, particularly the English Bible, was particularly enjoined, and where the prayers of the Protestants were said to be no better than the howlings of wolves, and not heard in Heaven. This was enough, he thought, to show the house that the Catholics of 1825 were not in spirit wholly different from those of 1725; he would say with an hon. member who was crossing the floor (here Sir J. Sebright happened to be going out of the house, and loud and reiterated cheers followed this allusion), that he was ashamed to see the House of Commons discussing the Catholic question in these times (cheers). He (Sir T. Lethbridge) was astonished at their doing so; and he wondered, that in these times any ministers would dare—he did not mean this in a personal sense—to bring forward a measure, the object of which was to abrogate the securities which had been provided for the preservation of the constitution (hear, hear). He felt that he had said more than he ought (a laugh), and he thanked the house for their indulgence. He felt it to be a duty to protest against the vicious principle of the bill, and the violation of the solemn oath which it would occasion. Oaths were of the utmost importance in general. He had taken an oath to perform his duty; and he never would take an oath which he afterwards intended to alter or violate. He could say, in spirit with the late beloved Monarch, who preceded the present, that “he was ready to descend from the throne, he was ready to descend to the cottage, he was ready to lay his *block* upon the *Acad*—(here loud cheers and cries of hear, hear! interrupted the hon. member for a considerable time. After silence had been restored, he proceeded, receiving much attention from the house).—“He was ready to descend from the throne—he was ready to descend to the cottage—he was ready to lay his head upon the block, but he was not prepared to violate the oaths he had taken.” So he (Sir T. Lethbridge) would say; he was not prepared to violate the oath of supremacy he had taken, before this house and all the country.

Mr. Peel said, it was hardly necessary for him to state that he acquiesced in the proposition that the Speaker should leave the chair, only because he would have another opportunity of taking the sense of the house on the question. His objections to the bill now under consideration, were strengthened by the vote to which the house had come on a former night, and by which they were pledged to make a provision for the Roman Catholic church (hear).

Mr. Butler Clarke said it was impossible that Ireland could remain in its present state. Under present circumstances nobody would invest

capital in Ireland; nobody would live in it who could avoid it. If the bill before the house were passed, he was convinced that Government might withdraw every soldier from Ireland. Ireland would then be kept quiet with the assistance of the Catholics themselves.

Col. Trench was of opinion, that the unhappy situation of Ireland had resulted from the system of misgovernment which had long prevailed in that country. That system had, however, been altered; the good seed was sown, but it could not be expected that the crop should be reaped directly. Capital to a large amount had, he knew, been carried into that country; that capital would produce industry, and industry would produce tranquillity. He opposed Catholic Emancipation, because in Ireland the immense mass of the people was in an ignorant and degraded state, and were entirely under the influence of the priesthood, whom he believed to be directed, in their turn, by political feelings. The Catholics would not be content with what Parliament would give them; they would never be content until they obtained possession of supreme power (hear). He had no objection to admit the Catholics to the privilege of a silk gown, about which so much had been said, but he would exclude them from the sacred circle of the Protestant constitution.

The house then resolved itself into a committee of the whole house, Mr. Macdonald in the chair.

The bill having been read a first and second time,

The Speaker said, nothing which he had heard or read had relieved his mind from the serious apprehensions with which it was filled with regard to this great, and, as he thought, most dangerous measure (hear, hear). However painful it might be to him to differ from the majority of the house—to differ from those on whose opinions he in almost every case placed the greatest reliance; and above all, notwithstanding he felt that the course he was now pursuing was a great evil, and to be justified only by the necessity of the case, still feeling that a question of this kind admitted of no compromise, so long as he retained his conscientious objections to the question of emancipation, he should be ashamed of himself if he did not declare them. He had been anxious not to remain silent with regard to the present bill, the only public measure with which he had interfered since he had had the honour to fill the chair (hear, hear).

Sir H. Parnell took that opportunity of observing that the hon. member for Somersetshire (Sir T. Lethbridge), in reading the oath taken by Roman Catholic bishops, had omitted a very important passage; in which they stated that their relations with the Pope could in no way shake their obedience to the King and Royal Family; what appeared to be the objectionable parts of the oath, had been explained to be harmless by high Catholic authorities. The words *salvo meo ordine* were introduced to separate the spiritual obedience which the Catholics owed to the Pope, from that which they owed to their Sovereign.

On the motion of an hon. member, that the form of the Catholic oath should be amended by substituting the words “present Protestant Church Establishment,” for “present Church Establishment,”



Mr. *Phinkett* objected to the alteration, on the ground that casuists might call it an admission that there was some other established church, besides the Protestant, existing in England. The oath already called for a disavowal by the Catholics of doctrines which no man in his senses could suspect them of entertaining. But in the year 1821, the Catholic advocates had been taunted by their adversaries for not employing the full and formal oath provided in the year 1793; and, in order to satisfy as far as possible all scruples, that oath of 1793 was now returned to.

Mr. *Peel* concurred in thinking the addition of the word "Protestant" superfluous; and still further as to the needlessness of many of the disavowals called for by the oath. He could not think it necessary to call upon the Catholic, at this time of day, to swear that he would not destroy or murder any person under the plea of that person's being a heretic.

Mr. *Brougham* said, that the oath was required to be taken only by those who were called to exercise some public function. Some hon. members objected to the oath as an insufficient security, while an absolving power was retained by the Pope. But what other security had they at present besides that oath (hear, hear)? What was there to hinder his learned friend, Mr. O'Connell, from coming into the house at the present day but an oath? There were many parts of Ireland—he would not name them, lest he should give alarm to some of the Irish members—at all events there were places in England, where, if Mr. O'Connell presented himself as a candidate, his election would be certain. What was it that prevented him, but an oath (hear, hear)? "Oh, but," said the opponents of this bill, "the Pope may absolve him from that oath." "No," replied Mr. O'Connell, "I do not believe that he or any other authority has that power, and therefore I will stay out of Parliament, because I cannot conscientiously take it" (cheers). To doubt the obligation of these oaths on Catholics was one of the most marvellous instances of human inconsistency: Why, the thing was quite plain, and he did not despair of making it understood even by the hon. member for Bristol (Mr. Bright), who had somehow or other got his head filled with all sorts of extraordinary prejudices on this subject (cheers). The hon. member, however, and his consort the member for Surrey (Mr. H. Sumner), who sailed together on this question, turned round and said this was not sufficiently strong as a security. Why, in the name of Heaven, or he would say, as perhaps something of greater weight with those who were now so much alarmed for the security of the Protestant establishment, in the name of Dr. Daigeman himself (cheers and laughter), what security could they have greater than that which they already possessed? What, he would repeat, prevented the Catholic from coming into Parliament without the intervention of any bill, but his respect for the sanctity of an oath, and his consequent unwillingness to take one from which he knew he could not be absolved (hear, hear)? For his own part, he was not anxious for any oath, because he did not believe any such security necessary; but he consented to an oath being embodied in the bill, because he knew that he had to conciliate prejudices.

The clause was then agreed to.

To the next clause, providing that no Catholic should be eligible to be Lord Lieutenant or Lord Deputy in Ireland,

Mr. *Robertson* proposed as an amendment the following words:—"Or of being returned as member to serve in parliament for any of the Universities in that part of Great Britain called England and Scotland."

The amendment was negatived without a division.

The Chairman having put the clause containing the regulations touching the appointment of bishops and deans of the Roman Catholic church in Ireland,

Mr. *Brougham*, after reading the following words of the clause, "And whereas it is expedient that such precautions should be taken, in respect of persons in holy orders professing the Roman Catholic religion, who may at any time hereafter be elected, nominated, or appointed to the exercise or discharge of episcopal duties or functions in the Roman Catholic church in Ireland, or to the duties or functions of a dean in the said church, as that no such person shall at any time hereafter assume the exercise or discharge of any such duties or functions within the United Kingdom, or any part thereof, whose loyalty and peaceable conduct shall not have been previously ascertained, as hereinafter provided," wished to add to them these words—"And whereas, it is fit and requisite to regulate the intercourse between the subjects of this realm and the see of Rome, be it therefore enacted, that it shall and may be lawful for his Majesty, his heirs and successors, by two several commissions, to be issued under the great seal of Ireland, to nominate and appoint such persons in holy orders professing the Roman Catholic religion, and exercising episcopal duties or functions in Ireland, as his Majesty, his heirs, and successors shall think fit to be commissioners under the act for the two purposes before-mentioned, and that the person first named in the said commissions should be the president thereof." As he had before stated the grounds on which he recommended these securities, he should not now repeat them. The objection to this provision was, that by agreeing to it the house would legalize the spiritual authority of the Pope. He asserted that the house would do no such thing; it would merely regulate the existence of that which had existed for many years, in spite of its enactments. That the Pope exercised spiritual authority in this country could not be denied. For instance, if the Pope were to ordain him a priest (a laugh), and the King were to appoint him to the bishopric of Durham (a laugh)—one of the most lucrative appointments, by the bye, in his gifts, and the best trade of all now going (laughter)—he would be entitled to become a bishop *per saltum*, and would not require ordination from any person qualified to confer it in the English church.

Mr. *Peel* said, that Bishop Horsley drew a distinction between the different authorities exercised by the Pope of Rome, which well deserved the attention of the house. He admitted the Pope was bishop of Rome, and that he had liberty to confer degrees within his own jurisdiction; but he denied that the Pope had any liberty to do so in this country. The proposed provision he (Mr. P.) esteemed worse

than nugatory. No objection which he felt to the removal of the Catholic disabilities would be removed by the existence of such securities. If any gent. would get up and say that these securities would be effectual securities to the Protestant Church in Ireland, he would waive the objection which he now felt to them; but he objected to them on the ground that they imposed on the Crown an obligation to appoint two permanent commissions, composed exclusively of ecclesiastics. Besides, they provided that if the bull, dispensation, or other document received from Rome were of an innocent nature, it should be sent to the parties to whom it was directed, but did not provide for what was to be done in case it should appear to be of a dangerous description. There was no penalty attached to any bishop who should exercise episcopal functions without having received such a certificate as was mentioned in the present clause. Add to this, no commissioner would like to impeach a man of disloyalty who had not been convicted of some disloyal act. There was nothing more vague than the ideas attached to the words loyal and disloyal; and he would therefore wish to know what construction the learned gent. intended to put upon them?

Mr. Plunkett would have no objection to throwing these securities overboard, if by so doing he could ensure the company of his rt. hon. friend to the conclusion of his voyage; but as he could not flatter himself with such a hope, and as he knew that the abandonment of these securities would deprive him of the support of several of the crew with whom he was then embarked, he felt bound to keep them at all hazards. For his own part, he thought these securities effectual and essential to the success of the bill. It was known that Catholics lived under the spiritual control of their priests—were influenced by it to a certain degree in their political conduct, and were, by means of their priests, in constant connexion with the Court of Rome. He held it to be no inconsiderable security, that when the people were so much under the influence of their priesthood, that priesthood should be brought into connexion with the state, and should give to it full assurance of its peaceful and loyal behaviour. The objection that loyalty was a vague term might have had some weight, supposing they had been framing an act of Parliament to punish a want of loyalty. In that case it might have been necessary to define clearly the meaning of loyalty in order to ascertain the extent of crime which was concealed under a want of it; but in the present case, no such niceness of language was required. He admitted that the securities of the present bill were not the same with those of the bill which he had introduced in 1821. By the bill of 1821, the commission was to consist of certain prelates, certain laymen, and certain ministers of the Crown. By the present bill, no laymen, nor ministers of the Crown, would be admitted into it, but it would consist exclusively of Roman Catholic prelates. He considered the security of the present bill to be equally good with the securities of the bill of 1821. He should not have suggested any change in those securities, if it had not been his duty to furnish the committee with such measures as would be thankfully received by the Catholic population; and he was informed, on good autho-

rity, that to a commission of this nature no part of it would object. He took it for granted that the Roman Catholic prelates were good subjects—were honest men whose oaths could be relied on; if that were admitted, was it not a great security that the Crown should be allowed to select individuals from their body, by whose certificate it could be assured that every person enrolled amongst their number was a loyal subject, and not only that he was a loyal subject, but that his nomination had been domestic and had not proceeded from the Pope, or from any foreign power. Domestic nomination had been considered, from the commencement of these discussions, as a security equal to a direct *vesto* on the part of the Crown. The people of Ireland were ready to grant domestic nomination without a murmur, whereas the *vesto* could not have been given to the Crown without great difficulty, and perhaps not without entering into an express *concordat* with the Pope. Even if the question of Catholic Emancipation could not be carried, he should consider an arrangement of this nature to be highly essential to the security of the empire, and to the tranquillity of Ireland.

The clause was then agreed to.

Upon the clause for regulating the reception of bulls from the Church of Rome,

Sir Francis Ommalley complained that the homage paid to these bulls ought not to be encouraged—it was contrary to the second commandment, which prohibited idolatry (a laugh).

Mr. Brougham assured the hon. gent. that he might retire to, or rather continue his night's rest (a laugh), without any fears upon that head—for these bulls were not the animals with horns, that were sometimes calculated to scare a man, but quiet and inoffensive bulls upon paper (a laugh), which were merely received by the Catholics with some pious tokens of adoration and respect.

This clause being agreed to, the house resumed.

### *Elective Franchise.*

MONDAY, MAY 9.—Mr. Littleton moved, that the house do resolve itself into a committee on the bill for regulating the Elective franchise in Ireland. The question having been put,

Mr. Grattan entered his protest against the bill, as one of the most unjust and unconstitutional measures ever brought under the consideration of Parliament. He was astonished that the House of Commons should appear disposed to pass the bill without information, when the gentlemen connected with Ireland themselves entertained the most opposite opinions with regard to it. If the house distrusted the Catholics, why did they propose to grant them emancipation? It was said that the people of Ireland did not value their privilege. That, however, was not true; and if it were, they would not deserve emancipation. By passing the bill, the house would involve themselves in a system of legislation which would lead to the most fatal consequences.

Mr. F. Fitzgerald said, that so far from compromising any existing popular rights, the present measure went to confirm them, inasmuch as no new votes could now be created. He wished, however, to make the bill a measure of general reform; and he objected, therefore, to that clause which exempted one

class of voters, the forty shilling fee-simple freeholders, from its operation.

Mr. *Leath Foster* said, that if the bill passed in its present shape, they would only pass from one scheme of fraudulent voting to another. Landlords would merely give the tenant disfranchised by the present bill a fee-simple in the wretched cottage which he inhabited, and so constitute him, afresh, to all intents and purposes, an efficient voter; the slight pecuniary loss sustained by the giving up of the cottage being made up by an additional rent-charge laid upon the land.

Mr. *Dawson* said, that the three bills respecting Catholic Emancipation, the elective franchise, and the Catholic priesthood, were so blended together, that it appeared to him that he could not vote for one of them without voting for them all. He was upon principle decidedly opposed to the bill for the relief of the Catholics; and as the bill then before the house was merely introduced to promote the success of the former bill, he should give his vote against it, though he considered it in itself a wise measure. He would raise the qualification to 20l., which would prevent the system of fraud and perjury now existing, and would introduce into Ireland what was much wanted—namely, a substantial yeomanry, to stand between the highest and the lowest classes of the community, in defence of British liberty.

Mr. *Hume*, in objecting to this bill, begged to state, that it did not in the slightest extent alter the principles of that support which he had ever felt disposed and determined to afford to the great measure of Roman Catholic Emancipation. But had the substance of this measure been introduced as a clause into the bill for the Emancipation of the Roman Catholics, he would rather have voted against that great bill itself, while it possessed any such contents, than support such an invasion of the rights and privileges of so large a class of the people, as this bill for the abolition of the forty shilling freeholder's franchise went to effect (hear). There was no evidence before Parliament of a satire to be relied on—that could at all justify or bear out the recital of the abuses which were said to render this bill necessary. Every question which was addressed to the witnesses examined before the committee was put in this manner—"Would you have any objection to such a measure, provided we gave you such another?"—making Emancipation, as it were, the alternative. This was altogether unfair, and he should move for the appointment of a committee, to inquire into the real state of the elective franchise in Ireland (hear). In the case of Grampound, for example, where it was a question to disfranchise only between 50 and 60 electors, it should be remembered what reluctance the house had shown to begin any measure of this kind, and the remedy provided was to extend the franchise to thousands who had not enjoyed it before (hear, hear). Was it fair to visit the forty shilling freeholders of Ireland with a measure of this kind, and not to extend the same limitation to the forty shilling freeholders of England? If there were any one principle which more than another ought to be kept in view by those who were friendly to the reform of Parliament, it was the further extension of the elective franchise; and upon that principle he now called on all the advocates of Parlia-

mentary reform to oppose this obnoxious bill (hear). It was impossible to foresee to what an extent the principle of such a measure might be carried. Was Parliament to deprive, upon charges by no means satisfactorily or to a sufficient extent established, the many of this elective right, in order to vest it in the few? Want of political virtue was by no means peculiar to the poor; on the contrary the rich were much more prone to sacrifice the interests of the public: the poor exhibited much more independence than it was usual to give them credit for. Before they advanced a step further in the present business, let the house obtain the information which it was necessary to possess on the matters recited in the bill; and if it should be found that the abuses charged did exist, let Parliament endeavour to correct them, and instead of abolishing the franchise of the forty shilling freeholders, teach them to exercise it with more honour to themselves and advantage for Ireland. They ought not to blame the people of Ireland for being under the influence of their landlords, but to punish the landlords for exerting that influence in the shape of terror to procure an unwilling vote. The same influence was universally exercised in England and in the same way. He begged in conclusion to move "That a select committee be appointed to inquire what faults and abuses exist in the exercise of the elective franchise in Ireland; and to ascertain whether any and what measures can be adopted with a view to correct the same" (hear, hear).

Col. *Johnson* seconded this amendment. He had been stationed for a long time in Ireland, and witnessed many elections in that country; but he did not remember to have witnessed such abuses as were supposed to exist in the exercise of the elective franchise by the Irish forty shilling freeholders. The measure before the house was a wanton violation of popular rights, for all the evils which it pretended to remedy might be obviated by taking the votes by ballot.

Mr. *Martin* (of Galway) observed it had been said that on the present occasion Irish members particularly were to be listened to; but they were the very last men in the world who ought to be listened to (a laugh). He himself was the last man who ought to be listened to (a laugh) on this subject. All Irish members were here incredible witnesses. He could easily understand that at a recent meeting of 30 or 40 Irish members, the bill should be a favourite bill; for as it went to disfranchise so many freeholders, the effect would be that gentlemen, instead of having to canvass a whole county, containing some thousands of electors, would have to canvass 10 or 20 freeholders. He compared the bill to the nostrum of a French quack, who professed to cure the tooth-ache. His patient took the medicine till every tooth dropped out of his head, the sound as well as the decayed teeth. There followed a process in the *Tribunal de Cassation*, and the matter was gravely pleaded. The judge was of opinion that the patient had been robbed and deluded. The quack defended himself by the terms of his contract. He had undertaken, he said, to cure the tooth-ache, and that he had done. The preservation of the teeth was no part of the bargain. This was the policy of the bill. He supported the bill, but it was with reluctance: it was for the sake of obtaining

Emancipation. He had persuaded himself of the propriety of doing a little wrong, for the purpose of obtaining a great good.

Mr. S. Rice said, it appeared to him, that when the deficiency of evidence was complained of, the contents of the minutes were strangely overlooked. He approved of this bill, because he was a friend to Parliamentary reform. It would effectually enlarge the number of real constituents. There was no analogy between Ireland and England as to this subject. The law was the same: the practice was different. The bill would cure the evils of numbers and poverty. Not that he objected to those qualities in a sound body of constituents; but only where they made parties exercising the franchise more wretched and dependent than they would be if they had no such privilege. From the evidence of Judge Day, Mr. O'Connell, Mr. O'Connor, Colonel Currie, and General Burke, it appeared that the raising of the qualification to 10l. would not abolish one good vote. It would also tend to make the gentry reside in Ireland: they would not then be able, as now, to command votes at pleasure; instead of driving men up to the hustings, they must solicit them. This would make them attentive to the wants and wishes of the people, and would create something like public opinion in Ireland. It would be a different consideration if the bill touched the votes of fee-simple. Had this bill gone to affect them in any degree, he would not have supported it. It only went to leaseholds of a very questionable nature.

Mr. M'Naghten opposed the bill altogether, as it went to disfranchise innocent men and posterity, and left the rogues who had committed the fault unpunished. The freeholders in the north of Ireland were sufficiently independent.

Lord Milton intended to support the bill, less on the ground of its own value than from its connexion with the greater and ulterior measure. Its merits had, he thought, been a good deal exaggerated, but the independence of forty shilling freeholders had been perhaps not less over-rated. The hon. member for Orford, for instance, had borne witness to the freedom of voters in the north of Ireland; and yet, the circumstances under which that hon. gent. spoke, formed a curious commentary upon his assertion. The hon. member (Mr. M'Naghten) had, until lately, himself represented a considerable county in the north of Ireland; at present, he appeared sitting for a small borough on the eastern coast of England; and how was this change to be accounted for? Simply by an instance of the independence of the electors of Ireland. The hon. member sat for the county of Antrim, until a certain member of a certain illustrious family (Lord Yarmouth) came of age. That noble personage then received the support of the uncontrolled freeholders of Antrim, and the honourable member was transferred to a borough, the property of the family of that noble personage—to wit, the borough of Orford (hear, hear, and laughter). What he (Lord Milton) desired was to prevent these transfers in future.

Mr. M'Naghten said that the noble lord was in entire ignorance of all the facts relating to the matter to which he had addressed himself (laughter). He (Mr. M'N.) had ceased to be member for the county of Antrim in 1812, from motives which were understood by himself (hear,

and laughter), but which were very different from those which the noble lord meant to insinuate (great laughter).

The house then divided, when the numbers were—For the amendment, 53—Against it, 168—Majority, 115.

Mr. Lambton declared that if the bill before the house, and the bill in favour of the Catholics, were to be considered as necessarily connected, his mind was made up that he should vote against the latter.

Mr. Hobhouse entreated his hon. friend (Mr. Lambton), to reconsider what he had just said. He thought that as his hon. friend had made his opinions known on the disfranchisement bill, he might still continue his support to the great measure of Catholic Emancipation. It would be only playing into the hands of the antagonists of the Roman Catholic question to vote against that measure, because it was coupled in appearance with one not so agreeable to his feelings.

Mr. Hume declared that he would rather vote against the measure of Catholic Emancipation than support it, coupled with the bill for disfranchisement.

Mr. Brougham: The hon. member for Durham could not feel more deeply than he did the objections which applied to the measure now before the house. But he conjured his hon. friend, and those who coincided with him in opinion, by the political friendship which subsisted between them—by the love they bore to their country—he called on them by their sense of public and private duty—not to pursue the course which they had stated their intention of adopting. He hoped to be listened to by them while he told them the reason why they should not adopt the line of conduct which they proposed. If they did not vote for the Catholic question, it must necessarily follow that they did not act under the influence of their own opinions—that they were not free agents (hear). It would appear that they did not declare themselves for or against the measure, because they were in their own minds convinced that they ought to vote for or against it. No; it would be seen that they voted for the bill on one day, because they approved of its principle, and opposed it on another, because a measure was introduced that was not connected with it—because the house had sanctioned that measure, and adopted an opinion contrary to theirs (hear). If he were, on account of the freeholders' bill, to vote against the Catholic Emancipation bill, he should be voting against his own conviction, on one question, for no other reason but because on another question the house differed from him in opinion (hear). He called on those hon. members who declared that they would adopt another line of conduct to re-consider their opinion. He did not wish them to say a single word to-night; but he conjured them by to-morrow night to turn the subject in their minds—to consult their feelings—to awaken their better judgment; if they did so, he felt the most confident hopes that his appeal would be attended with success (hear, hear).

Mr. Lambton said, the last clause of the bill now before the house was so intimately connected with the Emancipation bill, that they appeared to him to be one and the same thing. They could not, it was provided, pass the one without the other (hear, hear). Now, as he

would much rather that the forty shilling freeholders should retain the right of voting, without the Catholic Relief bill being passed, than that they should be disfranchised, in order that Catholic Emancipation should be carried, he could not give his vote to the latter measure, proceeding as it did in conjunction with that which struck him as being exceedingly unjust. Not even the threatened displeasure of any of those with whom he had long been in the habit of acting, could induce him to abandon his opinion. He said this with pain; for no man could give up long established friendships without feelings of pain. His learned friend said, he could throw out of his consideration the connexion of the disfranchisement bill with the Catholic Emancipation bill (hear, hear). His learned friend might do so, but he (Mr. Lambton) certainly could not. The last clause was too intimately connected with the Catholic Relief bill, to enable him to view the two measures otherwise than in conjunction. In his opinion, the disfranchisement of the freeholders would effect a much greater evil than the granting of Catholic Emancipation would produce ben fit; and if the former measure were persisted in, he should feel himself bound to oppose the latter. Those opinions he advanced without meaning any thing disrespectful to his learned friend, and to those opinions he would firmly and inviolably adhere. He did not, and could not retract. He was not to be browbeaten in this way out of his well considered opinions. He was the last man to submit to any thing of the kind. He acted, in adopting those opinions, from a conviction that they were for the good of his country, and, so help him God—if he might use an expression which had perhaps been too much objected to—he would continue to adhere to them, although the consequence should be the rupture of the dearest political friendship he ever enjoyed.

Mr. Brougham denied that he had the slightest intention to brow-beat his hon. friend. There were, he believed, 300 members present, and if any one member—(and that was a large and extensive challenge)—would get up and say, there was any thing, even in the tone of what he had said, that indicated a wish to brow-beat his hon. friend, he would be content to suffer under his own condemnation. Nay, if his hon. friend, on reconsideration, was of opinion that there was any thing in the tone of his respectful remonstrance which manifested a desire to brow-beat him, then he would readily say that he had been guilty of a great offence against good-breeding. He was not conscious, at any time, of attempting to brow-beat any person; and certainly he was never in his life less inclined to do so than on the present occasion.

The bill then went through the committee.

### *Catholic Claims.*

TUESDAY, MAY 10.—Mr. Dolerty having presented a petition from the Protestants of Galway, in favour of the Catholic claims,

Mr. Bunterworth said he had sent a circular letter to different parts of Ireland on this subject (hear), and he had received answers which led him to believe that the Protestants of Ireland were not so strongly in favour of this measure as had been represented. He did not receive his information from gentlemen who

had seats in that house, and who might be under peculiar obligations to their constituents (hear, hear). He got his information from the clergy, and from gentlemen of very respectable character, who were well acquainted with the state of the country.

Mr. Maurice Fitzgerald wished to inform the hon. member, that if any person opened a shop in this country for the receipt of tales of bigotry and hypocrisy (loud cheers from all parts of the house).—if he opened a shop for the collection of motives, such as those which the hon. member was so ready to attribute to others, he would find that that shop would command abundant communications (hear, and laughter.) The hon. member had insinuated that gentlemen of Ireland who had seats in that house were not competent witnesses on this question, because they might be under peculiar obligations to their constituents. He would boldly say, that he for one owed very great obligations to his constituents. He had represented them for 30 years, and he had, during that period, conscientiously voted in favour of the Catholic claims (hear). His constituents were full of as genuine and sincere Protestant Christianity as the hon. member was, and yet they advocated the cause of the Roman Catholics (hear). They were incapable of being either intimidated or cajoled. They well knew the source from which those calumnious statements reached that house, and they despised it (hear). Those mischievous assertions were levelled at the peace and quiet of Ireland, and were sent abroad for the worst and basest purposes (hear). He trusted the house would indignantly throw aside such calumnious insinuations, which were calculated to produce the worst consequences, and which originated in the basest feelings (hear, hear).

The petition was then ordered to be printed.

On the question that the Catholic Relief bill be read a third time,

Mr. Curwen declared his opinion to be in favour of the measure. He knew that in the populous county with which he was connected a very large majority of the inhabitants was friendly to that measure. He believed that it would be rather advantageous to the Established Church that the Catholics should be allowed to enjoy the privileges which they sought for. There never was a moment when the Established Church had less reason for apprehension, for it was now more popular than it had been at any former period in his recollection, owing to the zealous manner in which its ministers discharged their duties. He was certain, that if any of the "No-Popery" chalkers were to make their appearance in the district where he resided, they would be hooted out of it. The Irish were exceedingly sensible to kindness, and a little concession would produce great effect in the way of conciliation.

Sir H. Inglis said, that the ground on which it was attempted to pass the bill before the house, was, that the Roman Catholic religion had changed its character—that it no longer retained the same intolerant and persecuting spirit which distinguished it in former days. This argument had no foundation in fact, for the church of Rome was not only unchanged but unchangeable. He would first direct the attention of the house to the intolerance which that church exhibited with respect to literature. Had it not prohibited the productions of all the

master-minds which had appeared since the reformation (hear, hear)? First of all were the works of the great Bacon. The date of their prohibition was 1669 (hear). The prohibition was renewed in 1819 (hear). Locke's Essay on Human Understanding was another proscribed work; so also was the *Paradise Lost* of Milton; and Alberoni's work on the Newtonian philosophy (hear, hear). Was the spirit which dictated the prohibition of these books one of the facts on which the supporters of the bill before the house relied, as proving a change in the feelings of the Catholic church? The book of Grotius, *De Jure Belli*, and Puffendorf, were likewise placed under proscription. In the course of the debate on this question, reference had been made to Fenelon and Pascal; and an hon. member had asked whether that church could be bad to which such men belonged? His reply was, that the works of those eminent men were also set down in the prohibited list (hear, hear). How it could be contended that men represented the Catholic church, when that very church proscribed their works, he was at a loss to conceive. Again, not only were all Bibles printed in the vernacular tongue of the south of Europe prohibited, but the New Testament was also given up to the Inquisition (hear). It was said with respect to these books, *ne quisquam audeat, aut legere, aut emere*. The measure before the house could not, therefore, be supported on the ground that a change had taken place in the spirit of the church of Rome. The late Pope was one of the most Protestant Popes, if he might be allowed the phrase, that Europe ever saw. Yet what had been the conduct of that man who owed his personal gratitude to the British nation for the restoration of the works of art to his capital? He was so imbued with the spirit of the Romish religion, that when the English residents at Rome applied to him for leave to have a chapel in which they might attend their own mode of worship, he refused to allow it (hear, hear). The place in which Protestants were permitted to cast their dead had no wall or fence to protect it. When the late Pope was a prisoner in France, Napoleon asked him to tolerate all religions: his answer was contained in a circular letter to the cardinals, and was to this effect:—"We have rejected the proposition as contrary to the tenets of the Catholic religion, the tranquillity of states, and the happiness of life" (hear, hear). The same Pope, in an encyclical letter to the bishops, said, in reference to a proposed union of the Catholic with the Protestant religion, "As well might we unite Christ with Belial." Were these facts any evidence that the Church of Rome had changed with the change that had taken place in the intellectual character of the age? It was true that the physical power of the Church of Rome was less than formerly, but its disposition to exercise spiritual and intellectual tyranny was as strong as ever. We had bound the strong man; but his spirit was still stirring within him; and let us beware how we admitted him into the temple of the constitution, lest he should burst his bonds, pull down the fabric, and involve himself and us in common destruction (hear, hear). What was the first act of the late Cortes of Spain, when they were taking so much care to preserve their own civil rights? They declared that the only religion of the state was the Holy Roman Catholic

Apostolic religion; that it was necessary to protect it by wise and just laws; and that the exercise of any other was prohibited. In the new state of Mexico, and in Belgium, the same intolerant spirit prevailed; and the first act of the Sardinian Government, on its restoration, was to restore the old intolerant laws on the subject of religion. The evidence which had been given before the Committee, and on which it was attempted to found the argument of a change in the Catholic religion, was, in his opinion, unsatisfactory. No man would venture to appeal to a jury on such evidence. The evidence of Dr. Doyle was totally inconsistent with the opinions contained in his letters signed "J. K. L." He believed that emancipation was comparatively an object of no desire to those in whose name it had been so long and so clamorously called for. He founded his opinion on the testimony of those who had as often represented themselves as the friends of the people. The house would probably recollect the testimony which was given by Dr. McNevin before a Parliamentary committee in 1798. He was asked by a noble lord, who at that time held a pen in his hand, "Do the people of Ireland care the value of this pen, or the drop of ink which it contains, for Catholic emancipation?" His answer was, "No." Emmett, who was no mean authority in Ireland, in 1798, said, "I consider that the people of Ireland do not care a farthing for Catholic Emancipation; nor did they care more for reform, until they were told that it would lead to other objects, of which one was the abolition of tithes." Oliver Bond was examined at the same time. He said, in answer to a question which was proposed relative to the institution of the Society of United Irishmen,—"The Society of United Irishmen was instituted in 1791, for the purpose of obtaining reform; the question of Emancipation was a mere pretence." He was asked, "Do you think the mass of the people of Ireland care about reform?" His reply was, "No; but those who think for them do" (hear, hear). He believed that the case was much the same at the present day. The bill, if it were passed to-morrow, would not satisfy those persons who disinterestedly took upon themselves to think for the people of Ireland. Our whole constitution was a system of exclusion. Power was regulated in this country by age, sex, and property; and he thought we had as much right to look to opinion in the administration of our mixed constitution, as to age, sex, or property (cheers).

Mr. Horace Twiss said, that although the opposition to this bill had been rested mainly on the ground that the proposed alteration would be repugnant to the constitution, upon that remarkable theory of the hon. member for Corfe Castle, that this constitution was in its genius exclusive, yet the friends of the bill had hitherto taken little notice of this line of argument. But it would be to be regretted if the country should thence infer, that the advocates of concession had given way upon the main constitutional ground; and he would therefore solicit the attention of the house to a constitutional view of the question, which he believed had not been before presented, at least, not connectedly, or in its clearest light. In dealing with this, which was the material question remaining on the bill, he would narrow the issue to one single point of the exclusive law; and that issue

could not be taken upon a point more convenient than the exclusion from Parliament; because that was the particular exclusion which the opposing party regarded as the strongest in principle for their argument; and if it should be practicable to make out the proposition that even this exclusion from Parliament was not of the essence of the constitution, it would hardly be pretended that there was any thing essential in the exclusion from any of the minor franchises. Though several enactments existed for a century before the Revolution, imposing severe penalties upon Popish recusants under certain circumstances, yet the only principle, regarding franchise or eligibility, that was known to the constitution down to Charles the Second's reign—a principle unqualified by any condition but the single one of acknowledging the political supremacy of our own Sovereign, to which the Catholics, for the most part, had never been averse, was the common law principle, as declared by Lord Bacon, that "the subject that is natural born hath a competency of ability to all benefits whatsoever." When the Parliament, therefore, in Charles the Second's reign, enacted the tests which this bill proposed to repeal, and which tests, with some little modification of the oath under William and Mary, were at this day the bars to the entrance of Catholics into Parliament, it was naturally thought requisite that a deviation so striking from the common law principle of general eligibility should be justified or at least explained to the people, by reasons set forth on the face of the statute. Now if these original reasons, which had been thoroughly valid and constitutional at the first, continued valid and constitutional still, then it might be true that exclusion was a principle of the constitution, and ought not to be superseded by such a bill as the present. But if those original reasons had expired—if all their spirit had evaporated with time—then either it must be shewn that other constitutional reasons had arisen since, which now supplied their place; or it must be allowed that, with the extinction of the constitutional reasons for exclusion, the exclusion itself had lost its constitutional character, and merited support no longer (hear, hear). The makers of this statute of Charles II., set forth in its preamble, "that the divers good laws then in being against Popery, had failed of their desired effects, by reason that Popish recusants had access to court, and liberty to sit and vote in Parliament." For the sake, therefore, of ensuring the desired effects, by the prevention of those two violations of the good laws against Popery, as also for safety against the danger with which the Popish Plot was then supposed to be threatening King Charles and his Government; for these two reasons—and these were all that even the statute alleged—the legislature proceeded, among other enactments, to provide for the exclusion of Catholics from the Parliament as well as from the court. This exclusion from Parliament, then, instead of having been what very many supposed it, a regulation of a substantive character, intended to form a new era and a permanent principle in our constitution, was in truth enacted in the humble, secondary character of a help to the desired effect of the divers good laws then pre-existing against Popery. Now what did gentlemen suppose those divers good laws against Popery were, which this especial help was thus introduced to

havigorate? Something which we fondly clung to—which we religiously and affectionately revered? They were neither more nor less than the body of repealed pains and penalties (hear, hear)!—that body, which, after it had survived all the circumstances that perhaps in the 16th and 17th centuries might have justified its original creation, was decayed by time into disuse and disgust, and lay for years a lifeless lump in our legislation; when Parliament passed the Act of 1791, which buried the last remains of the nuisance, and removed it for ever from the nostrils of the people. That was the collection of divers good laws against Popery, which this preamble said, would fail of their desired effect, if Papists were not forbidden to sit and vote in Parliament! To preserve at this day, when Parliament had swept away the Code itself, a harsh restriction, which originally affected no higher character than that of an auxiliary to that code, would, at best, be an absurdity—even if it did not involve a wrong. But it was a wrong, and in nothing more notoriously than in this, that, while the original preamble to the restriction kept its place upon the statute book, setting forth, as its reason, a code of laws, now long since repealed and annulled, the restriction not only kept the birthright of our fellow-subjects from them, but kept it upon a false pretence. It was true, that the support of the divers good laws against Popery, was only one of the two motives alleged in this preamble; for it adverted to another, and at that time a much more influential motive, the danger, or rather the terror, of Popish plots. But grant that these plots justified exclusion: grant even that the plots were real; what mattered these things to the present generation, at a time when not only the conspirators with their conspiracies were crumbled into dust, but the government itself, for whose safety against them this statute professed to provide, had been re-modelled on a larger and surer foundation. The reasons assigned in the statute of Charles II. having thus entirely failed, the vindicator of the tests was driven to seek their constitutional title in such other reasons as might have arisen since. The principal of these *ex post facto* reasons was, that the exclusion had been settled at the time of the Revolution. It was an article, the Solicitor-General had said, in the compact of King William with the English leaders, in order to confirm the Protestant constitution of these realms. No; but in order to another object, doubtless very important while it lasted, but an object in its nature not quite so lasting—in order to confirm the new and not yet secure title of the Prince and Princess of Orange (hear, hear)—in order to provide, at a juncture when almost every Catholic was a partisan of James, a test which, in the Papist, should detect the Jacobite (hear, hear). For this, the real object, there was no need that these invidious disqualifications should be prolonged beyond the secure completion of the Royal settlement. But the moment any one approached this part of the case, he was straightway warned off as a sort of trespasser upon the constitution of 1688. Now, he would by no means speak loosely or lightly of any thing so enacted or sanctioned; all was done, he believed, for the best at that time; but the modern mistake about the constitution, as then arranged, consisted in not distinguishing between its permanent principles

and its temporary expedients. The permanent principle of the constitution was, that every subject, whatever his station, should not only possess a perfect security for his person and property, but should likewise hold the greatest proportion of public rights, which it could consist with the general welfare, that he should be permitted to enjoy (much cheering); and every measure seemed to him to be consistent or inconsistent with the constitution, not as it tallied with any particular circumstances of 1825, or of 1688; but as it promoted, or impeded that great general principle (hear, hear). There might be exceptions, no doubt, to any political rule—exceptions of troubled periods, and exceptions as to dangerous individuals; but ought one million of people to be the rule, and five millions of people the exception? Ought the exception, as in Ireland, permanently to comprise five times as many cases as the rule? If that were the real result of the theory, if the doctrine established that disqualification was the common and general rule, and eligibility only the privileged and rare exception; if the argument thus construed the constitution to be the inheritance of only one man in every half-dozen, he ventured to retort upon that doctrine the charge of unconstitutional tendency, and to affirm that the breach of allegiance to the constitution was not with those who would communicate it, and promote its growth, but with those who would cramp and curtail it. He would show, however, that King William's principles were not chargeable with the inconsistencies imputed to them. It appeared, from the returns to Parliament, in 1731, that, in the earlier half of the last century, the whole Catholic population of Ireland was less than one million and one-third, and the number of Protestants between 7 and 800,000; and at the time of the Revolution, which was upwards of forty years before, the numbers were probably fewer. On a numeration so small, our ancestors might not unreasonably have considered that political dangers might justify the relative depression even of the majority of the whole people, when that majority exceeded the minority by only three or four hundred thousand persons. But if those founders of our constitution were alive at this day, to see the Catholics, with the other Dissenters, exceeding the Protestants of the Established Church by nearly five millions of souls, could it be thought, that in a state of facts so different, the law they would recommend would be the same? No; they would tell their country, according to the tenor of the principles upon which their great names were founded, that to a surface so extensive a narrow rule must be inapplicable; that political inequalities, however occasionally justifiable upon a small scale, became intolerable and impossible upon a larger one; and that the mere physical operation of things, the mere swelling of the stream of population, must hurry, of itself, irresistibly forward, to burst all those weak embankments, and lay waste the land which it should be forbidden to enrich. He listened, therefore, gladly when they referred him to their ancestors; he allowed and he admired the model; all he asked was, that they might avoid servility in studying it; that they might construe their code, not with a literal minuteness, but as its great authors would have written it had they been writing now; that

they might no longer pore blindly upon the letter of their laws, but rise to the spirit of their legislation. Gentlemen who relied on the inviolability of all the anti-Catholic provisions that were arranged or acquiesced in at the time of the Revolution, might find themselves enmeshed into difficulties which a mischief-loving Papist would take not a little diversion to behold them struggling withal. The very first Parliament under King William most seriously enacted—ludicrous as such a provision might now appear—that two Justices of the peace, from time to time, might search a recusant Catholic's house and premises, to see if he possessed—arms? No. Treasonable papers? No. But to see if he possessed any horse of more than 5*l.* value; and moreover, that any friend of that Catholic assisting in the concealment of such unconstitutional Popish nag, should be liable, not only to pecuniary penalties, but also to three months' imprisonment. Now, on the principles of some gentlemen, this law, for the exclusion of Papists from the turf, was just as rightfully an unalterable feature of the constitution, though a feature not quite so prominent, as the law for the exclusion of Papists from Parliament: nay, if there were any difference in point of authority between the two, the horse law had rather the higher pretension, because it originated under King William himself, in the very year of our great Revolution. In 1791, the Parliament revoked the power of the magistracy to tender the Test, and thereby virtually abrogated also the penal enactments upon the horse-owner who should refuse to take it. We had hitherto supposed that they had done that very judiciously; but from the argument now under consideration, which he did not see how the hon. member for Corfe Castle could help adopting, who made exclusion his hobby, it should seem that Parliament made no small mistake, in thereby dismantling one of the bulwarks of the constitution; that it would have been happier, if, in 1791, some cautious patriot had whispered his too easy country, that she should keep the "*equo ne credita*" more steadfastly in view—that she was bound by her constitution to preserve all her establishments exclusively Protestant, down even to her very racks and mangers. It was now, he feared, too late. The stable-door had been imprudently thrown open to the insidious Pope; and though we had him still debarred from the mansion house, he was nestled irremovably in the hay-loft (laughter and cheers). If, then, there was no general immunity for all the laws left standing by King William's Parliaments, was there any thing about this statute of Charles the Second, in particular, to distinguish it from its contemporary laws, and endow it with a special charter of unalterability?—It had been already altered, time after time. First, by the statute of William and Mary, which had re-moulded the section prescribing the oath; a second time, by a statute of George II., which had repealed the material section, requiring tests from the royal household; a third time, by the 31st of Geo. III., which had repealed the still more important section, whereby Papists were excluded from court; so that there had actually, by this time, been more taken away than left standing of that great constitutional protection, which we were still told it would be destruction to us to break in upon, or even to touch. Gentlemen how-



ever, imagined they had entrenched themselves on a still stronger ground of constitutional principle, when they argued that the reasons assigned for this bill would lead to the extent of releasing our sovereigns, as well as our parliaments, from any test of their Protestant faith. The reason why they might exclude a Catholic from the throne, consistently with their admitting him into Parliament, was this:—that though the essentially Protestant principle of the constitution would not be affected in any assignable degree by the admission of half a score Catholics into a body of several hundred Protestants, yet that Protestant principle would be not merely endangered, but absolutely destroyed, if they were to fill the supreme place, which in its nature only a single individual could fill, with an individual who should not be Protestant. One Catholic would change the whole character of the Crown; while fifty Catholics no more make any change in the character of the Parliament, than fifty admirals or colonels would convert it into a council of war. That, in one word, was the reason why no inconsistency was chargeable on the proposal of admitting a few Catholics into a Protestant Parliament, which would equally continue to be Protestant still, and yet excluding any Catholic from that Protestant throne, which his single accession would render Protestant no longer (hear, hear). He was bound to admit that if Catholics were really dangerous subjects at this day, little argument of a constitutional tenour could be raised for admitting them into the legislature, from the mere fact, that in other and dissimilar times the charter of our liberties was won by Catholics: just as on the other hand he was entitled to insist, that if the Catholic of this day was not a dangerous subject, the misdeeds of his ancestors in certain dark and distant ages, afforded no constitutional plea for his disfranchisement now (hear, hear). But at all events it would be fair to say, apply your measure equally—if you visit upon the Catholic the sins of his fathers, beyond even the third or fourth generation, do not debar him from his interest in his father's deservings (hear, hear). When the striking fact was first pointed out, that of the baronies, by whose lords *Magna Charta* was acquired from King John, the only four now extant as baronies were in the tenure of Catholic peers; that fact was appealed to, less in the way of strict argument than as matter of feeling. But it did become a question of argument, whether they should tell one vast body of the people, that, in their entire case, the constitution had for ever repealed that great law of nature and of civilised society, which had made the merits of the parent a transmissible inheritance to his children—if you were thus to tell them, that while the state expected the services of all her subjects, her constitution had cut off one of the strongest of human inducements to serve her (hear, hear). What zeal would have been felt for our liberties by those Howards, and Talbots, and Arundels, and Cliffords, who won not only our original charter under John, but its repeated confirmations and enlargements in subsequent reigns—with what heart would they have risked, as they did, their lands and their lives, to lay the first ground-stones of that constitution, beneath whose shelter it was our pride to dwell, if they had dreamed that a time was to come, when their posterity, and the posterity of Catholics like

themselves, must be shut out, without an accuser, without a crime, without even a surviving suspicion, from the threshold of its protection and its privilege (repeated cheering)? If, then, all the ancient reasons for restriction were thus extinct, as well those which operated in earlier times, as those which had been assigned in the statute of Charles II., and in the arrangements of the Revolution, inasmuch that the law of exclusion could stand no longer upon them, but must rest, if at all, upon other reasons of a more modern necessity, then he presumed to say, that upon principle the supporters of the tests were now precisely in the same situation in which they would be, if, with the expiration of the old reasons, the old law itself had expired also, and they were now introducing a bill to renew them for a further term. He had listened in vain for any suggestion of danger or inconvenience from the abrogation of the tests. He was not, indeed, surprised that no such suggestion had been offered; for, indeed, what appropriate ground—nay, what plausible topic, even of those which once and long were popular, would the proposer of a renewal of them be now in a condition to dilate upon? There survived no such aspirant. The ambition of an over-reaching Pontiff—the dim reflection of her classic antiquity, was all the lustre that now remained to Rome. As to the project, long imputed to the Catholics, for recovering the forfeited estates, he would not ask the house to disbelieve the imputation, because the Catholics themselves denied the design; nor because the obliterating hand of time had made that design impracticable, by effacing four-fifths of the forfeited titles—but because the leading classes of the Catholics themselves had become extensively the purchasers of the forfeited lands (hear, hear). Would the renovator of the tests then enlarge upon the probable numbers of the Catholics in Parliament, and the influence which those numbers would carry with them? Those numbers, and that influence, would stand in about the proportion which one bears to sixty-five or seventy. But his hon. friend, the Under-Secretary (Mr. Dawson) had expressed his apprehension, that a legislature chequered with Catholics, would follow the ancient example of Tyrconnell's Popish Parliament; a Parliament which his hon. friend had described indeed to be so very Popish, that it contained only eight Protestants in the House of Commons, and not more than ten in the House of Peers. But bigotted as they were, at all events they did not exclude those few Protestants for the difference of their religious faith (hear, hear). And when that Catholic majority upheld and advanced its own Catholic faith, unheeding and unchecked by the handful of Protestants, the inference forced itself upon him, that in like manner a Protestant Parliament now, would be very little impeded in the maintenance of its Protestant faith, by a similar admixture of Catholics (much cheering). But his hon. friend dreaded the insincerity of that religion; and the persecuting spirit which he supposed peculiar to the Catholic religion. Persecution, however, was not more peculiar to the Catholic than to most other of the many religions which in different ages had been what was called established—that is, connected with the ruling powers of the state (hear, hear). Take, for example, the persecutions upon the two main questions which those very tests involved—the

nature of the Lord's Supper, and the supremacy of the Pope. Henry the Eighth persecuted furiously for the Catholic opinions respecting the nature of the sacrament: that would be attributed to his breeding up in Popery. But he persecuted just as furiously against the supremacy of the Pope: was it Popery that prompted him to that? Bishop Bonner committed his murders on behalf of the Catholic faith; and it would be said that Popery spurred him on; but was it Popery too that led Craumer to burn men alive for the Protestant faith (hear, hear)? Or when Trajan set the aqueducts of pagan Rome afloat in Christian blood, was there any Pope in the plot, with Apollo and with Jupiter (hear, hear)? The danger of the recurrence of persecution had passed away for ever (hear, hear). Persecution was endured in other days, from the same ignorance on the part of the people, as to their own just rights and physical powers, which induced them to put up with its kindred evil, political oppression; but if a new Henry, a new Mary, or a new Elizabeth, were to arise in these days, we should no more allow them to give their bishops commissions for burning us, than we should let them arm their privy councils with arbitrary powers to imprison and fine us. But there were some who, not fearing much in our days from the faggot or the rack, were yet unrecovered from the apprehensions excited by the associations in Ireland, and were now induced to withhold their support, lest the house should seem to have been frightened into a vote. If, after the angry demonstrations of those bodies, the house had hurried them, for the first time, to a vote of concession, there might have been some colour for the imputation of timidity; but bearing in mind, that bill after bill for the relief of the Catholics had passed this house in this very Parliament, and failed only in another stage, he would put it individually to every member of those majorities which had hitherto carried the question through this house, which course would afford to his constituents and to the world the better assurance of his firmness, that he should maintain his consistency by his unaltered vote, or that, in an excess of panic, he should retract and upset the mature resolves of years (hear, hear)? Before gentlemen, who had previously supported this measure, should resolve to abandon it now rather than risk the imputation of fear, he begged them to consider whether, if there were such a thing as being frightened into a vote, there might not also be such a thing as being frightened out of it? He begged them to consider whether their credit for courage would stand much higher, if they should be called on to make their election, and act, at the time—as come that time must, if ever war should break out again—when Ireland, arming in the general excitement, should hold her weapons ready to be guided, as the policy of England should guide them, either for our defence, or, which God avert, for our dismemberment (loud cheering). England would relieve her then, and better then than never. But he would have no man flatter himself with the delusion, that the concessions which he might subscribe with a drawn sword at his throat would ever be set down as the result of any very fearless, philosophical deliberation on his part (repeated cheers). Besides the associations themselves, the source of the fear had ceased to exist. Ireland, the quarter

of the empire most largely and directly to be affected by the proposed concessions, had for some time past been so free from her wonted disturbance and distress, that in the annual balance of our affairs, that kingdom had this year, for the first time, he believed, within the memory of man, been carried to the credit side of the public account. Even if the Catholic religion had been, as some alleged, too often made the cloak of dangerous designs against the state, a cloak which they were resolved they would not encourage any subject of this realm to wear—could they believe, after the experience of so many unhappy years, that their's was a policy which would be likely to induce him to cast that cloak aside? The very fables of childhood would teach a sounder wisdom. They would tell how the wayfaring man, who, when assailed by the tempest, gathered the folds of his garment but the more closely about him, relaxed before the kindly influences of a gentler sun, and opened his bosom to its warmth (much cheering). No doubt concession had been made to a great extent—that was precisely his argument—and the larger the boons which parliament had granted, and the oftener parliament had granted them, the more it made for his case. For, wherefore had they granted so much to the Catholics? Not, of course, from fear; not, undoubtedly, from favour; but because on each single occasion, when, as trustees of the public safety, parliament had felt themselves justified in sanctioning some fresh concession in the series, the circumstances upon which they acted, the visible effects of previous boons upon the behaviour of the Catholics, had been such as to satisfy reasonable men that each new concession respectively would be free from danger to the public weal; so that each of the consecutive relaxations, instead of being an argument against more, had, in truth, been a successful experiment; showing how completely the welfare of the state might consist with even a progressive concession (hear, hear). He trusted he had now made out the proposition with which he began, that the constitution to which gentlemen had appealed was not of the exclusive character which they would impute to it; that the dangers which might once have existed as constitutional reasons for exclusion were altogether at an end; and that no others had arisen since to supply their place. And these considerations had the greater force, because, even if the Catholics were proved to entertain any, or all of the objects which had often been imputed to them, no man had yet uttered one single syllable to show in what manner the proposed relaxation would assist in advancing their energies (hear, hear). Nay, on the contrary, it should seem that parliament would be diminishing the power of the Catholics by removing the sympathy with their wrongs (hear, hear). The preamble of the statute of 1 Edw. 6, c. 12, after reciting that "Rebellion and insurrection, and such mischiefs, had made it necessary to enact laws which might appear to men of exterior realms"—for even then it was that foreigners had their eyes on our religious dissensions—"and many of the King's subjects, very strait, sore, extreme, and terrible, although they were then, when they were made, not without great consideration and policy, moved and established, and for the time very expedient and necessary"—

concluded, as he would do, in the following words:—"But, as in tempest or winter one course and garment is convenient, in calm or warm weather a more liberal case or lighter garment, both may and ought to be followed and used; so we have seen divers strait and sore laws made in one parliament, the time so requiring, in a more calm and quiet reign of another Prince, by the like authority and parliament, repealed and taken away: the which most high clemency and royal example the King's highness willing to follow, is contented and pleased that the severity of certain laws be mitigated and remitted, upon trust that his subjects will not abuse the same, but rather be encouraged thereby more faithfully, and with more diligence (if it may be) and care for his Majesty to serve his highness" (repeated cheering).

Mr. *Hart Davis* contended that the constitution of England being essentially Protestant, no concession of power should be made to the Roman Catholics beyond that which they possessed at the present moment. He was the less disposed to consent to any further concession, because he had no guarantee that the Catholics would be more satisfied with those now proposed, than they were with what they had already obtained. Was it, he would ask, decent or just to the Sovereign of the country, that he must be Protestant, while at the same time he might be surrounded by Catholic councillors? He was not disposed to trust the Catholics. He had no confidence in the professors of that religion; for he believed, that if they got what they now sought, they would endeavour to become equal in the state to the Protestants, and when they obtained that, they would strive for the superiority.

Mr. *C. Grant* said, this question had been always argued on the broad basis of a general measure, but he regarded it as essentially an Irish question; and viewing it in that light, he would ask, "Reject this measure, and how will you deal with Ireland?" (loud cheers)? Whoever regarded the intense expectation which had been excited, the profound and universal national interest which had been awakened, must have a mind of peculiar fortitude to look at the question in any other light than as affecting the peace of Ireland. To this part of the subject, often as it had been adverted to, he had never heard a rational answer. Some hon. members seemed to think that a partial concession, that the eligibility of a few Catholic barristers to the honour of a silk gown, would secure the tranquillity of that country, but when they had to deal with six millions of people, seeking for the restoration of their civil rights, it was a mockery to rest upon a point of this kind. The supporters of the bill took their ground on the broad constitutional principle, that every man should be admitted to an eligibility to that rank and office which he might claim as a British subject. As long as the present exclusive system lasted, no firm reliance could be placed on the duration of the tranquillity of Ireland. But some hon. gentlemen founded their objections to an alteration of the existing system on the very evils which it had produced. It was said, that the Irish people were not contented--that they would never become so under any modification of the laws. He would ask those hon. members, had they ever attempted to make them contented (hear, hear)? Had they conciliated the affec-

tions of that generous and warm-hearted people (cheers)? The simple state of Ireland was superior to a thousand arguments. They passed penal statutes against the Irish Catholics until they made them lawless and insurrectionary almost by nature; but what one act had they done to render them contented (hear, hear)? It had been said by some, that it would be cruel to have the King alone deprived of all freedom of conscience, whilst he was surrounded by Catholic councillors; admitting this to be an anomaly, he would ask whether the anomaly was the result of this measure? Did it not at present exist? Was not the King prevented from becoming a Presbyterian, although he might be surrounded in his court by ministers of that persuasion, or by believers in no religion at all (hear, hear)? Many objections had been taken to this measure, on the ground of its recognition of the spiritual power of the Pope; but was not this power most substantially recognized at Maynooth—an institution endowed by a Protestant state, of which Catholic visitors regulated all the bye laws affecting the doctrines and discipline of the Church of Rome (hear, hear)? It was said, that after the passing of this bill no conscientious Protestant could swear hereafter that the Pope had no "spiritual authority within these realms;" but was there any man, who, at his entrance into that house, took that oath, and did not at the same time believe that the Pope did possess such a power (hear, hear)? The great misconception under which they had hitherto laboured, in the proceedings towards Ireland, was, that they forgot the moral influence of laws; the parliament forgot that they were legislating for a warm and affectionate people, who were much more likely to be influenced by kindness than coercion (hear, hear), and until they admitted the principle of conciliation to its fullest extent, it was vain to hope for any thing like tranquillity in Ireland (cheers). When enlightened foreigners contrasted the policy of England with other countries—when they were desirous of pointing out the want of wisdom, the want of liberality, the want of a power to accommodate itself to the growing intelligence of the age, they pointed triumphantly to Ireland, and then told us not to speak of English magnanimity (cheers). Was not this an additional reason for removing speedily this foul stain from the national character (hear, hear)? Whether they consulted the security of Ireland, or the glory of England, it became now ten times more incumbent on them to emancipate—not Ireland, but to emancipate the English people and the English legislature from the disgraceful bonds in which for so many years they have been enchained (cheers). It had been argued that this measure would not affect the great mass of the people, because the lowest individual could not attain the highest offices in the state; but one of the soundest maxims in the constitution was, that the most exalted office was open to the humblest individual; and it was to maxims of this description that those workings of conscious merit, struggling against, and surmounting the difficulties that surrounded it, could be traced, which exertions had made this country what it was: it was that unabated and encouraged ardour diffusing itself through all the ramifications of society, that had raised England to her present unrivalled greatness—

"Spiritus intus alit, totamque infusa per artus  
 "Mens agitat molem, et magno se corpore miscet."

(cheers). He should take the opportunity of offering to the house his humble testimony with respect to the great body of the Irish Catholics—a testimony founded on the experience which he had acquired, when in the exercise of official duty in that country. When he first entered on that duty, he had felt strongly on the situation in which the law placed that body of the King's subjects. He was then told by those who differed from him, that greater experience, and a personal acquaintance with the local circumstances of Ireland, would correct the warmth of his enthusiasm. He did not deny that these observations had their effect—they made him at least ready to give a reception to every argument that could be advanced in their support. They produced in his mind a determined impartiality on that great question; and he could now assure that house, that his further official experience, instead of shaking his original impressions, more deeply confirmed them (cheers). There existed in that country no common point of intercourse between the Government and the people—no illustration of that habitual, he would say instinctive fellow-feeling, which so marked the character of England, which vibrated from one extremity of the land to the other, which was felt

"—At each thread, and lived along the line."

The great mass of the people of Ireland moved in an orbit of its own; it presented the dark surface to the view of the Government (hear, hear). A mass thus circumstanced would be, to use the language of Mr. Burke, formidable from the "activity of its inertness." But in Ireland, that great body, in place of being inert, was quite alive—it was full of moral and physical influence. And it was in such a mass that the severity of the law had sown the seeds of discontent which it was still considered by some, expedient to nourish and treasure up. True it was that the great portion of that penal code had been repealed, but there was still a remnant which, though useless as to security, was potent for insult and degradation (hear, hear). He could not but feel that such a system of policy had in Ireland discovered six millions of the people from all sympathy with the aristocracy, from the influence of property, and substituted for those natural holds on popular affection, an influence either of the priesthood, which, when duly qualified, was salutary, but which, under certain circumstances, might become noxious, or transferred their guidance to the dark plottings of the midnight incendiary, who, by working on their passions, aggravating their grievances, and appealing to their love of enterprise, too often and too fatally led them to exercise, with their own hands, a rude and vague justice on the laws themselves (hear, hear). In every period, since the communion of this country with Ireland it had been a maxim with some statesmen that the Irish were not fitted for the British constitution. Undoubtedly that maxim, by being too pertinaciously adverted to, had worked out its own necessity—for it was a question of notoriety, that as it affected Ireland, the Constitution was always, he might say, in a paroxysm. It was unjust to impute to Catholics—that, as Catholics, they were incapable of all those great and patriotic

attachments, which were the objects of general admiration and respect. The history of France furnished an example in disproof of such an imputation. When Henry the Fourth was opposed by the Duke of Guise, to whose party all the atrocities which disgraced that period were to be attributed, the Catholic nobility of France—the chivalrous portion of that body—attached themselves to the standard of that Protestant Prince, because, as the historians of that period had observed, they believed him to be the Sovereign, destined by Providence to ascend that throne. Thuanus, in his preface addressed to Henry the Fourth, had made some observations most descriptive of all those calamities to which a country, torn by religious dissensions, was subjected:—"Nempe ad cetera quibus hoc infestum virtuti sæculum scatet mala, religionis dissidium accessit, quod jam too pœne sæculo orbem Christianum continuis motibus vexat et deinceps vexabit, nisi tempestiva remedia, atque adeo alia quam quæ hactenus adhibita sunt, ab iis, quorum præcipue interest, adhibeantur. Nam experientiâ satis edocti sumus, ferrum, flammæ, exilia, proscriptiões, irritasse potius quam sanasse morbum menti inhaerentem (cheers): ad quem proinde curandum, non iis quæ in corpus tantum penetrant, sed doctrinâ et sedulâ institutione, quæ in animum lenitèr instillata descendit, opus est." Before he concluded he was anxious to guard himself against the imputation of being considered, because he advocated the cause of six millions of Catholics, indifferent to the religion which he himself most conscientiously professed. For that religion he felt, he sincerely hoped, as warmly as any man who heard him (hear, hear). He detested the doctrine that men were proportionally liberal towards other forms of faith as they were sceptical in regard to their own. Actuated by a far different conviction, he supported liberality towards the Catholics, because he felt that the unassailable purity of the Protestant belief allowed him with safety to open the porch of the constitution to any other clam of fellow Christians (hear, hear). No man could now doubt that this measure must eventually pass. It might be delayed unhappily a year or two, but pass it would. He saw that result in the progress of public opinion, in the enlightened charity which all classes of the community were feeling towards each other—he saw it in the attention which the state of Ireland had attracted from the Legislature, and, above all, in the light which, as it affected Ireland, had broken in upon the country by a thousand avenues (hear, hear). How was it possible, when all the other impediments to national greatness and increased prosperity were removed, that such causes of disunion and heart-burning could remain (hear, hear)? Disappear eventually they must; and if so, why not crown the great arrangement, by making that which was inevitable, now acceptable (cheers).

The *Solicitor-General* contrasted the extemporaneous evidence of Dr. Doyle with the deliberate writings of that individual under the signature of J.K.L., and stated, that with all the respect that he felt for a Catholic bishop, he could not believe him as a witness, when he heard him uttering sentiments directly in the teeth of all that he had written. The three measures of Catholic Emancipation, of the elective franchise bill, and of the proposed establishment for the Catholic clergy, were so blended together, that he could not oppose the

first without saying a few words in condemnation of the other measure. With regard to the Elective Franchise bill, he would declare that it was one of the most unconstitutional measures he had ever heard of. The defenders of it said that it was made an adjunct to the Catholic Relief bill, in order to conciliate Ireland. To conciliate Ireland? Was the emancipation of the patrician and equestrian orders of Ireland from the disabilities under which they laboured, calculated to reconcile the general mass of its population to the loss of one of its best and dearest privileges? He would ask the hon. bart. who had brought forward the measure now under discussion, whether he would consent, for any measure which would benefit the splendid shopkeepers of Bond-street, to disfranchise the baker, the butcher, the chimney-sweeper, *et hoc genus omne*, who lived, as the hon. bart. must know, in the blind alleys and dark lanes of Westminster (hear, hear)? It was stated that the Elective Franchise bill was rendered necessary by the splitting of freeholds which took place in Ireland; but was Ireland the only part of the country where such practices took place? Had the hon. baronet never heard of such practices at Brestford? What was the value of the Isleworth mill from which so many forty shilling voters were driven up to vote for the hon. baronet? True it was that such a system might be productive of much fraud and perjury: but it was not on account of religion, it was not on account of the amelioration it would produce among the mass of the people, that it was required to disfranchise the forty shilling freeholders, but on account of the political advantages which the passing of the other bill would bestow on the higher ranks of the Catholics. The character which he would give to the Elective Franchise bill was contained in two words—it was *magnum latrocinium* (hear, hear). For instance, he could imagine a meeting between Mr. O'Connell, and one of the unfortunate disfranchised forty shilling freeholders, in which the latter might say, "Well, Mr. O'Connell, and what have you got?" "Oh," the answer would be, "I have got a silk gown, and a seat in Parliament." "Ah! that's very well indeed for you; but what have we got?" "You! Why, while we have got well robed, you have got well robbed" (a loud laugh)! He for one would never consent to give privileges to one class of men, and *uno flatu* to take them from another. A more unconstitutional measure had never been attempted since the grand forfeiture of the charters before the revolution (hear, hear). He could find no case in our annals which formed a parallel to the present. No borough had ever yet been disfranchised without due investigation of the charges brought against it, and without a considerable mass of evidence being taken upon oath to substantiate them; and yet the house was now precipitately going to disfranchise half the voters of Ireland upon evidence of the most conflicting and unsatisfactory nature, without having got any two individuals whom it had examined to agree, as to the qualification which the freeholders of Ireland were hereafter to possess. He would now proceed to the resolution relative to the proposed remuneration of the Catholic clergy. By that resolution they had determined to establish a Papal church, armed with all the jurisdiction belonging to Papacy (hear, hear). He thought

that the house could not be aware how extensive, how intolerable that jurisdiction was. Were hon. gentlemen aware that the rite of baptism, the rite of marriage, the rite of sacrament, the rite of entering the church, that of confirmation, that of receiving charity, and that of burial, were all spiritual rites which could be withheld or not, according to the will of the clergy? Connected with this subject was the form of oath to be taken by the Catholic bishops of Ireland. Why did these bishops refuse to take the same oath as was taken by the Catholic bishops of Spain? The bishops of that country admitted the supremacy of the sovereign in the oath which they took on their investiture; for in their oath was this clause, "*salvis regalibus, et usitatis consuetudinibus et tota subjectione domini Ferdinandi.*" Why could not the bishops of Ireland swear with a similar salvo? He complained that there had been a considerable doctoring with the oath to be taken by these prelates. It was different in the bill of 1816, in the bill of 1821, and again in the present bill. He could not say that the present form of it was *auctior* than it had previously been, because it was shorter; nor *emendatior*, because it was less correct. The learned gentleman went on to describe the jealousy with which the French government watched the conduct and correspondence of a Nuncio resident within their territory, and the regulations by which they secured to the chief officers of government the inspection of his communications from and to Rome, as well after his departure as during his stay. Such was the caution used in a Catholic state in admitting any emissaries or delegates from that dangerous power, a state, too, which took care previously to secure itself as much as possible by retaining for the crown of France, against all the Papal pretensions, the right of nominating its own bishops. There was no Catholic state in Europe—not even Spain, where the abominable tribunal of the inquisition prevailed—that did not show something of a corresponding jealousy, in its regulations of the intercourse between the clergy and the see of Rome—that did not compel by some means a recognition of the right of the Government to keep the ecclesiastics in submission to the secular power. The term securities was ridiculous in its application to the present vague law. What security could there be in a commission of Popish bishops, empowered to inspect all communications from Rome, and report thereon to the Privy council? What security would there be for abuses in the treasury, if instead of those continual checks put upon the financial administration by the house and its members, the Chancellor of the Exchequer could prevail upon Parliament to appoint a commission, composed of four Lords of the Treasury? Would not the constituents of the hon. baronet twit him with the fallacy, if he were to propose no better securities for the administration of the money of the nation? Yet such was his provision for the protection of the national religion. He would not reason gravely upon the securities. A great man would be ashamed to throw away the powder and shot of a good argument upon so wretched a position (laughter). These were not the penalties provided by Mr. Grattan, illustrious alike for his enlightened views and his patriotism, nor by his learned friend the Attorney-General for Ireland. Their bills proceeded on the principle, that

the state must have the opportunity of viewing all documents coming from that quarter, and the power of inspection was given to the great officers of state accordingly. He compared the adjuncts of the bill to wings, by which it had promised to make an Icarian flight. And yet, for all its wings, he could not help thinking that down it must come. It was said that circumstances were so altered that Popery was no longer dangerous—that the atrocities charged against it were taken from the iron ages of superstition and violence. They were, therefore, to look at its present state, green and fresh as it appeared. In several bulls and other instruments of the Pope, of recent date, Bible Societies were denounced, and the reading of the Scriptures forbidden. Parliament never could vote money for the purpose of bending down six millions of people in a degrading slavery to a spiritual thralldom, which assumed the power of excommunication and eternal perdition, if its victims were only to venture to read the word of God, or to offer up their prayers to him without leave first obtained of a priest. He concluded by moving an amendment, "that the bill be read a third time that day six months."

Mr. *Huskisson* thought that the argument had run too much upon the question of establishing a Roman Catholic church, instead of the question of tolerating one which was established. With their spiritual tenets and doctrines he had nothing to do. In the practices and intentions of the Romish hierarchy he could see nothing to dread, were they even wickedly inclined. He owed it to justice to vote for the removal of every enactment against the Catholics, or any other body of men who remained exposed to pains and disabilities long after the evils and dangers anticipated by those enactments had ceased. To withhold their rights was to keep alive divisions, to increase the dangers, to retard the prosperity of the country in times of peace, to distract our energies in war, when they ought to be combined against the common enemy. He considered the opposition to the adjuncts of the bill as of very little weight, because they came before the house rather as matters of detail, and all arguments on the principle had been long ago set at rest for ever. The practical view of the measure was with respect to Ireland. Apart from Ireland, however cogent the arguments and claims of the Roman Catholics and their advocates, they were comparatively unimportant. In Ireland they had to contend with all the difficulty of a divided establishment. With an evil of this magnitude still increasing among them, they ought to think of a remedy. Could they hope to convert the Roman Catholics? The speculation was too idle to discuss. He trusted much to the diffusion of wealth and intelligence among the Irish. But they must not expect that the Catholics would ever cease in their attempts until they had acquired their rights. What then was left but to remove the causes of discontent? The gallant member for Westmeath, who knew the value of 10,000 additional troops in preserving the peace of Ireland, and from his professional habits was not likely to be too easily alarmed, was of opinion that Catholic Emancipation would do more to tranquillize Ireland than 10,000 additional force. In consequence of these restrictions on the Roman Catholics, Ireland suffered the loss of all the benefit that might under other

circumstances be derived from the employment of millions of English capital (hear, hear). The Catholics came before Parliament as supplicants for admission to a participation of all those civil rights and privileges which were enjoyed by all other classes of the King's subjects; in this application they were backed by a large portion of the intelligence and influence of the Protestant community, both in England and Ireland, and it was the circumstance of their being so supported that made further denial of those claims highly dangerous. There seemed to be some hon. gentlemen who supposed that the Roman Catholic's perpetual meditation was how he might most effectually plan the overthrow of the Protestant establishment. The Roman Catholics were at this moment asking only to be admitted within the pale of a Protestant political society. Could it, then, be imagined, that the moment they should succeed their exertions would be turned to the destruction of that society (hear, hear)? Unless, therefore, the house could suppose the Roman Catholics to be the most foolish, as well as the most wicked people in the world, it could not entertain fears of this description. The chief ground of his rt. hon. friend (Mr. Peel's) objections was, that a Roman Catholic would be a dangerous adviser in the councils of a Protestant King. He (Mr. H.) could not apprehend that a Roman Catholic, as such, could be thus dangerous in such a situation; for if he could bring himself to plan the removal of the Protestant king, recognized by the constitution, or even the downfall of the Protestant Church, of which that king was the recognized head, he must have previously made such a sacrifice of his judgment to his zeal—he must be a bigot of so prostrated an intellect as had never before aspired to power. But, let his talents be ever so great, they would always be to be measured by the ability, and wisdom contained in that house (hear, hear). He warned the house, that if they did not at once proceed to do away with those unjust restrictions, and to repress these childish and unfounded prejudices, they would have, over and over again, to deal with assemblies in Ireland of as formidable a description as the late Catholic Association (hear, hear). The hon. member for Durham had rather reflected upon the way in which he conceived that the two bills, which he called the two wings, had been treated and prepared in the preliminary stages of their progress, prior to their being brought up before the house. But he begged to say, on the part both of himself and of his rt. hon. friend the Secretary of State for Foreign Affairs, that neither of them knew any thing of the bills in question, till the notice of the hon. member for Stafford and the noble lord (Gower). For his own part, he believed that both bills were intended to aid the great measure of Catholic Emancipation. As to the bill for disfranchising the forty-shilling freeholders, he could not say that he altogether approved of its principles. In voting for the other, he had intended to give it his sanction only up to this point and to this extent—that as this house held the public purse, and was bound to provide for the expenses of the public service, so he should hold it was bound to provide for the effectual operation and results of a measure which, by aiding Catholic Emancipation, would be calculated to produce such incalculable benefit to the community, over

which the parties in question might fairly be supposed to exercise so extensive an influence. But when his rt. hon. friend (Mr. Peel) talked about the making provision for a regular establishment for archbishops and bishops, and an inferior clergy, as a concomitant to the bill for Roman Catholic Emancipation, he (Mr. H.) begged to say that he contemplated no such provision whatever. He thought, indeed, that it would require much previous inquiry and consideration, before they could proceed to make any provision for the Catholic clergy by law. To the bill now before the house he gave his most cordial support.

Mr. Peel merely wished to take this opportunity of re-stating, that the opinions he had formerly held on this matter remained still unaltered. He could not concur with those who thought that no further concessions whatever ought to be made to the Catholics; he had distinctly declared his opinion that in all respects the Roman Catholics of England should be put on the same footing as those of Ireland. But he was still of opinion, that it was for the permanent interest of this country that the legislature and the chief executive offices of the state should be confined, as they were at present confined by law, to those who protested against the doctrine of the church of Rome. When he saw in what manner religion, and especially that religion, had influenced all the civil contents that had taken place in this country—how intimately religious feeling had been connected with all the great feuds recorded in our history and that of Scotland and Ireland—how mainly it had influenced the two great events of the Reformation and the Revolution, he could not but feel, that the desire to extend their own creed would ever be a leading motive with every class of its professors. When he looked at the numbers of the Roman Catholics, and at the circumstances under which the transfer of church property to Protestant hands took place at the Revolution, he could not feel satisfied that it was expedient to remove those barriers which he thought much better calculated to protect the Protestant ascendancy in this country than the ecclesiastical securities which it was now proposed to substitute for them. The exclusion of the Roman Catholics was coeval with the Reformation. In the 5th of Elizabeth it would be found that every knight, burgess, &c. before he could sit in that house, was obliged to take a certain oath, which if his learned friend (Mr. Twiss) would be content to administer, instead of the test or abjuration oath, he (Mr. P.) would be quite satisfied (a laugh). The learned gent. had quoted the preamble of an act which was passed in the reign of Edward VI.; the language of which he considered to be very beautiful and impressive:—"But as in tempest or storm one vest is convenient; in better or milder weather a lighter and more liberal garment, both may and ought to be used," &c. Now he (Mr. P.) being anxious to ascertain what was the "light and liberal garment" used in the reign of Edward VI. in respect of these matters, had found, on perusing the act, that it was one under which, for the very speech that learned gent. had this night delivered he would have been put to death (laughter, and cries of hear). "If any person shall by any writing, word, deed, or act deny the King's supremacy—then he and all his aiders, abettors, and comforters"

—that would be the learned member and all the gentlemen disposed to support him (laughter)—"should incur and suffer the penalty of death," &c. His apprehensions of danger from the removal of the existing barriers against the Roman Catholic religion were in no degree weakened by the vote to which the house had come—that it was "fit and expedient" to make provision for the Roman Catholic clergy; though he would not say but that it might be necessary hereafter to consider of the propriety of making some sort of provision for this class of persons. Without at all disguising from himself the difficulty of the two only alternatives which they were told the house had to choose between on the present occasion, he thought there was yet another plan to be proposed, which ought, at least, to give no dissatisfaction to the parties it applied to. If the legislature and the chief executive offices in the Protestant Government, as settled by the Bill of Rights, were left solely to Protestants, and all others opened to the Roman Catholics, he could not see that the latter would have a right to complain of such an arrangement, nor did he believe that it would lead to any of those invidious distinctions which he admitted had existence in Ireland, or those irritating processions that could not be enough condemned. That the Parliament was on this great measure placed in a situation of difficulty he did not deny; but that difficulty was in no slight degree attributable to the course which had been hitherto taken in that house on the subject, and by which the hopes of the Roman Catholics must necessarily have been raised very high. He had, however, not been instrumental in exciting or encouraging any false hopes in the minds of the Roman Catholics; and he therefore, perhaps for the last time, should now, by his vote, attest his uncompromising opposition to this bill, which proposed to grant them all that they claimed.

Mr. Brougham: The right hon. gent. still apprehended danger, it seemed, to the Protestant Establishment both in church and state, if the Roman Catholics were to be allowed access to office. The same alarm on the same account was experienced in England 120 years ago. But as no harm had happened notwithstanding, he had a right to anticipate that 120 years hence our posterity would laugh at our fears, as we now did at those of our ancestors. When the Scottish Union was to introduce into the House of Lords sixteen Presbyterian peers at once, the Bishop of Bath, the venerable predecessor of one of the most vehement opponents of the Catholic claims at this day, earnestly besought the Lords to consider that they were, by such admission of the Presbyterian peers, exposing themselves to a danger, the greatness of which no tongue could speak (a laugh). He had heard a great deal about the Jesuits of the church of Rome; and on that and on former occasions they had been flourished in the faces of gentlemen to deter the house, if possible, from having any communion with them. But what would they say to a Protestant bishop—one of the flowers of episcopacy—not a friend to the Catholic cause, but one who agreed perfectly with the right hon. gent.—a man, however, of great learning and research—what would they think of such an individual, if, when you signed the thirty-nine articles, he said—he, he it observed, hating Jesuitism—

"Though you sign the thirty-nine articles, you do not agree with them separately; but in the lump you admit of their propriety. Your belief with respect to some of them is an overflow—with reference to others, it is an ebb tide; and so far as certain other points are concerned, it is nearly a spring tide. You therefore can make a sort of average statement of your belief, and you may take your living for having swallowed the whole of the thirty-nine articles in this manner" (laughter). Such was the doctrine held out by that learned prelate. He was told that Dr. Doyle's pamphlet, if taken and contrasted with his examination, contained matter very different from that which he had delivered before the committee. Dr. Doyle's pamphlet contained, he thought, many intemperate expressions. But was it not possible that Dr. Doyle was sorry for those expressions? Was it not barely possible that the tone of that pamphlet, that the tone of speeches which had been quoted, and the difference which appeared in the evidence that had been subsequently given, might have been produced by the kind and considerate treatment which the individuals had experienced? Might not that change have been effected by the opening of the doors of Parliament, to a certain degree, for the purpose of listening to their grievances and complaints; and that, too, with an implied understanding that the Parliament of the united kingdom would redress them? Might not these considerations have mitigated the tone of those who approached the legislature with a tale of long-suffering? And if so, could any man advance a more cogent reason for proceeding in the same course of conciliation, and admitting the Roman Catholics to the full benefit of the constitution (hear, hear)? He protested against making the speeches or writings of any individual, a reason for condemning all those with whom he might be connected. Why should they make the opinions of one man, out of five or 6,000,000, the standard of all the principles, and of all the feelings, of the great body to which he happened to belong? How would gentlemen in that house like such a measure to be dealt out to themselves? How would the rt. hon. gent. who spoke last feel, if he heard any individual say, "I will not judge of the rt. hon. gentleman by what he has said himself; but by such or such a speech, delivered by a gentleman who supports his principles. Mr. Such-a-one spoke no very sensible speech—he can talk very great nonsense—so can Sir Such-a-one, or my Lord Such-a-one: listen to them; and then you will have a sample of the feeling of the Home Secretary, whose principles they advocate" (laughter). He had, in the course of the debate, heard something of persecution; and it was said that the principle of persecution was inherent in the Catholic church. Let not those who used this argument be too precise in its application. There had been persecutions in all churches. Let the priests of any religion have power, and let men speak in opposition to their doctrines; and persecution would be sure to follow. Let the house look to the head of the Lutheran church, which first pointed out the errors, as they were called, of the church of Rome. Luther himself was not free from the charge of intolerance. But whether our church were Lutheran or Calvinistic—for

Lord Chatham had declared, that we had a Calvinistic creed, an Armisian clergy, and a Popish ritual—Calvin was also a persecutor—the persecutor of Servetus, whom he caused to be burned. He called on the house to look at the scenes which, at no very remote period, had been acted in this country. He alluded to the infernal torments—he could call them nothing else—which, 150 years ago, were inflicted on the people of Scotland, under that tyrant, who, alike contemning the law of God, and the sacredness of the constitution, sent his people to die the death of martyrs, on account of the covenant. They died as they had lived, convinced of the justice of the opinions they had espoused, and scorning to give up a principle, even though their existence depended on it. On the one side were the priests, who possessed power; on the other side were the honest men, who dared to deny that their doctrines were right; and the result was that persecution, which he defied the man best read in matters of this kind to equal in the history of this country or of Europe. When individuals bandied about the charge of jesuitism and of persecution, he would advise them to remove all those disabilities, which, while they created ill feelings amongst one party, produced no benefit for the other, and to remember the words which had been quoted from Thuanus—*Proscriptiones irritasse potius quam sanasse morbum menti inherentem*. Let England throw aside her long-prized, and he once thought exploded Irish impolicy. Let her leave to foreign powers no spot on which they could dwell in the hope that there the empire might be weakened. Some of them at this moment dwelt with delight on Ireland. Every thing that passed in Ireland found its way into foreign Gazettes. In the Vienna Gazette not a word was said about our improvement in arts and sciences—not a syllable about the strides which education was making—not the least notice of the liberal policy which distinguished our commercial arrangements. These matters were all carefully concealed; and, with one exception, our domestic affairs were passed over wholly unnoticed. Unfortunately, the history of Ireland formed that solitary exception. The same feeling existed elsewhere. Let there no longer be a spot in the empire on which foreign enemies could suffer their eye to dwell with malicious pleasure. Make it as unpleasant for them to look on Dublin or on Cork as it was at present for them to view Edinburgh or London. Peace, it was true, was now established: but would war never come? And when it did come, let them, unless they changed their conduct towards Ireland, look to that country then. Did they recollect the situation of Ireland in the revolutionary war? Nay, fifteen years ago, when they talked of Ireland, did they not speak of that country as if a province of the empire was likely to become a province of France? Such times might come again, and such fears might be renewed, if the Catholic Claims were rejected now. After they had put down the Catholic Association—after they had increased their military power—after they had done much to irritate, and little to produce a kind feeling, he did not believe there was any man, whether English or Irish, who would be vain enough to answer for the peace of Ireland, even if a firm peace pre-



valled in every other part of Europe, if this measure were thrown out (hear, hear). But his he would say, that if they sent up this bill to the other house by a large majority, he thought, without arrogating to himself any peculiar foresight, that they might depend on the tranquillity of that country (hear, hear). But if it were not carried by such a majority, and that at the present moment, in this very reign—in the reign of His Gracious Majesty the King who now sat on the Throne—then he could only say that he had exonerated himself from any blame that might attach by calling on the house to be wise—by imploring them to act while it was day—by entreating them not to wait till the dark night shrouded them, “when no man can tell what will come!”

Sir F. Blake said he was always at his post; he stood there as the unsolicited advocate of the Roman Catholics (loud cries of question). They were entitled to an equality of rights and privileges (question, question); and this he asserted boldly, even in the face of the rt. hon. Secretary for the Home Department. (Laughter, and cries of question, rendered the remainder of the hon. bart.'s speech inaudible).

The house then divided.—For the third reading, 248—Against it, 227.—Majority in its favour, 21.

The bill was then read a third time and passed, amidst considerable cheering.

**LORDS, WEDNESDAY, MAY 11.**—Sir John Newport and several other members of the House of Commons, brought up the Catholic Relief bill. Sir John Newport, in handing it to the Chancellor said, “The Commons have passed a bill to remove the disqualifications of His Majesty’s Roman Catholic subjects, to which they request the assent of this house.”

Lord Kington presented a petition against the bill, from a member of the University of Oxford, the Rev. Thomas Sibthorpe, who prayed that he and other clergymen of the Established Church might be relieved from taking the oath of supremacy if this bill passed. The situation of persons taking orders would be completely altered by it. The Catholics and Dissenters did not admit of any interference of Government with their churches. The Church of England acknowledged the King as its head, but on the condition that the Government should be solely in communion with it. The state of the case would, however be completely altered, when the Government admitted Catholics to a participation of power in the state.

The bill was then read a first time.

**FRIDAY, MAY 13.**—The Archbishop of York presented a petition from the clergy of the East Riding of Yorkshire.

Lord King said that it was worthy of remark that but few petitions had been presented from the clergy of those dioceses which were large and rich, such as Canterbury, York, Winchester, and Durham; whereas they came in great numbers from those parts of the country in which the dioceses were small. A great proportion of the petitions from the clergy had come from Leicester, Cornwall, Devonshire, Sussex—in short, from all those places where the bishops were *in transitu*, and from which translations might be desirable. He must however say, that for his part, he preferred the

venerable fixtures of that house, to those pieces of furniture which were moveable and capable of being rendered more valuable by change.

The Bishop of Exeter declared that he never used any influence in procuring petitions. As he had stated this before, it was unfair in the noble baron to make this assertion again; but the noble baron might, if he pleased, repeat the calumny, for calumny it was. With regard to one of the petitions, he had a letter from the clergyman of the parish, informing him that no influence had been used to procure it, but that, on the contrary, the people had applied to him. He believed the real cause of so many petitions being presented, was, that the people of the country did not like to have indifference imputed to them in the cause of religion, as had been done by the noble baron. Their lordships had been told of the danger there would be in refusing to accede to the claims of the Catholics; but was there no danger in refusing to listen to the numerous petitions on the opposite side, which had been laid on the table from the people of this country?

The Bishop of Hereford disclaimed all exercise of influence on his part to procure petitions. Only one had come from the clergy of his diocese.

Lord King did not allude to the extent, but the revenue of the dioceses; the fact was, that the petitions were few from those where there were no translations.

The Lord Chancellor did not rise from any wish to oppose the kind of observations in which the noble baron so often indulged. He had already said, and he was confident of the fact, that their lordships owed a great proportion of the petitions with which their table was covered to the observations of the noble lord; for the people of this country did not wish to be held up as indifferent on this important question of Catholic claims. Let, then, the noble lord go on; because if he did, between that day and the day on which the measure was to be discussed, short as the time was, their lordships would find that many more petitions against the Catholics would be laid on the table.

Lord Holland felt some difficulty in reconciling the assertion that those petitions expressed the sense of the country with what had fallen from several rt. rev. prelates and the learned lord on the woolsack—namely, that the great body of the people was hostile to the object of the bill which had now, for the second time, been brought up from the other house, and to which the Commons of the united kingdom had twice solicited their lordships’ assent. According to the theory of the constitution, as it had been explained by the Anti-reformers, this could not be the case. Whenever the influence of certain secret parts of the constitution had been alluded to, he had been told, that in theory the House of Commons was the real representative of the people. But it seemed that he had been labouring under an error. The Commons were no longer the representative of the people. That house was, on the contrary, to be regarded rather as an oligarchy, as it had often been described by men who were called visionary reformers—as an ingenious contrivance to deprive the many of their rights in order to confer them on the few. It had sometimes been said that there was no proper vent for public opinion; but that complaint could no longer be made. for now a voice had

been found for democracy in that house; and the rt. rev. members of the opposite bench, and the learned lord on the woolsack, had constituted themselves the organs of the people. For his own part, though rather a luke-warm reformer, he had rather too much love for reform to deny the possibility of the vote of the House of Commons being different from the opinion of the people. After, however, that house had twice passed such a measure as the present, he did not think it could have been possible for any person to stand up and assert that the universal feeling of the people was against it. In the face of the decision of the House of Commons, which represented the whole people, and in contradiction to the known wish of at least one third-part of that people, their lordships were assured that the country was hostile to the measure; and this they were told on the authority of pocket petitions got up in holes and corners, of scraps of papers like private correspondence, which the members of the opposite bench, and the reverend and learned lord (laughter)—he meant the noble and learned lord—on the woolsack, were in the daily habit of producing. He did not mean to say that there was not a decided objection in some reflecting minds, to granting the Catholic claims, and an indifference on the subject in many others; but he would assert, that nothing had occurred which entitled any reverend or learned lord to say that the feeling of the people of this country was hostile to the Catholic claims.

MONDAY, MAY 16.—The Earl of Derby presented a petition in favour of the Catholic Relief bill. It had been drawn up at a public meeting convened by the boroughreeve, who signed the petition. The number of signatures attached to it was 16,378. A very short time had been allowed before it was sent off to be presented, otherwise he was assured it would have been signed by three times that number; but as it was, he considered it to represent the sentiments of the great majority of the most respectable inhabitants of Manchester.

The Bishop of Chester wished to make a few observations on the petition, which was opposed to another petition signed by 40,000 inhabitants of Manchester, which would be presented to-morrow. With regard to the petition now before the house, it certainly was the fact, that a meeting had been called by the boroughreeve, for the purpose of voting it. On the business being opened, the place of the meeting was occupied by nearly equal numbers on both sides. The question was put on the petition, and an adjournment was moved as an amendment. On a show of hands, there appeared a great majority in favour of the adjournment, and nearly all the respectable persons who attended went away, conceiving that the meeting was adjourned *sine die*. Soon after, however, a great number of low Irish, chiefly labourers, rushed in. On their arrival, a motion was made and carried, that the petition be presented. It was immediately signed by the persons who had thus rushed in. Copies of the other petition, against the bill, had been left for signature at different places in Manchester. A great number of Irish labourers availed themselves of the opportunity thus afforded, to sign not their names but their marks. On examination, it was discovered that between 2 and

5000 crosses were attached to it. It was thought that this had been done to depreciate the petition, and these marks were cancelled. The petition would therefore be presented to-morrow as signed by only 38,000, instead of 40,000. He did not deny that the petition presented by the noble earl contained respectable names, but a great proportion was of the kind he had described; and immediately after the name of the boroughreeve, came the names of a great number of Irish labourers, such as Michael Delaney, and the like.

The Earl of Derby:—Instead of the names of the lowest class of Irish labourers—as the rt. rev. prelate had thought fit to describe the petitioners—following that of the boroughreeve, the first name that occurred after his was that of Mr. Birley, who had been the commander of a volunteer corps. Notwithstanding all that the rt. rev. prelate had said, he still maintained that the petition contained a large number of respectable names, and spoke the sentiments of the great majority of the people of Manchester.

The Earl of Limerick censured the language used by the rt. rev. prelate in describing the persons who signed the petition presented by his noble friend. If Irish labourers signed the petition, he thought, however, that they did not deserve to be described as persons of the lowest order, since it appeared that they could write their names.

The Bishop of Chester, in using the expression “lowest class,” meant only to apply it to the worldly condition of the petitioners. He must, however, say, that from their situation in life, as well as their being Roman Catholics, he did not think them the kind of persons best qualified for giving an opinion on the question. Far from him be the idea of casting any reflection on those whom Providence had placed in a lower situation of life than himself.

Lord Clifden did not doubt that many of that description of persons, whom, on account of their worldly condition, the rt. rev. prelate styled the lower class, had signed the petition. Their doing so only proved the existence of general feeling in favour of the Catholic claims from the highest to the lowest\*.

The Bishop of Lincoln presented four petitions from different parts of his diocese against

\* Afterwards, Friday, June 3, the rt. rev. prelate made the following explanation: He said that he had received a letter from Manchester, complaining of certain erroneous statements in the report of his speech relative to that petition. He wished to observe, that the allegations which he had laid before their lordships were made on the authority of a respectable individual; but he was now desirous of doing justice by a more correct statement of the facts. He had stated that the petition was signed by 16,000 persons, but that 12,000 were of the lowest description. He was now informed that a very great number of the signatures were by the most respectable part of the inhabitants. What he had said about the insertion of Irish names appeared also to be founded in mistake. All he could say was, that he had from this occurrence learned a lesson not to make assertions on the authority of others. In future he certainly should not repeat, in that house, the statements of interested parties, without due inquiry.

Lord Suffolk was assured, on the best autho-

the Catholic claims. He alluded to what had lately fallen from a noble lord (King) who drew a distinction between the petitions from large and small dioceses. He could assure the noble lord that his diocese was one of the most extensive, and he doubted not that the noble lord would believe him when he said that he wished that its revenues were among the most extensive also. But he declared that he never had either directly or indirectly influenced the getting up of any petition. It was not becoming in any persons who had to decide on a question to seek for petitions either for or against it.

The Marquis of Lansdown said he had a petition to present from persons who could not be objected to on the ground of their worldly condition. It was signed by only 200 persons, who, however, represented property to the amount of between 90 and 30 millions. It was the petition of certain Merchants, Bankers, and Bank Directors of the City of London. Deeply interested in the welfare of this country, and convinced that that welfare mainly depended on consolidating the connexion between Great Britain and Ireland, they regretted any thing which tended to disturb that connexion. Being persuaded that a great part of the capital of this country was prevented from going to Ireland in consequence of the uncertain state of that country, the petitioners thought it right to approach that house, and to pray that measures might be adopted which would ensure tranquillity, and relieve the capital of this country from the impediments which prevented its useful employment in Ireland. He concluded by requesting that the petition be read at length.

**TUESDAY, MAY 17.**—The Lord Chancellor presented a petition from the congregation of Percy-street chapel, Pancras.

Lord King had been informed that the minister of Percy-street chapel had, at the close of his sermon, announced from the pulpit that the petition was lying in the vestry for signatures. He stated that the petition was against the Catholics, and observed, that as the House of Lords appeared to be influenced by numbers, it would be advisable for females as well as males to sign it. This subject of the Catholic claims was certainly now made a religious question, since it was mixed up with divine worship. It was held up as one of those things which the congregation were bound to "read, mark, learn, and inwardly digest."

The Bishop of London vindicated the character of the minister of Percy-street chapel. The subject had been mentioned to him (the Bishop) and he found no reason to censure the clergyman, who was a most pious and worthy man.

The Lord Chancellor said that as the Bishop of London was satisfied with the conduct of the clergyman, he hoped that the noble lord would be satisfied also.

The Earl of Caernarvon heard with regret the conduct of this clergyman defended. That defence would tend to establish a precedent for the like conduct; so that, whenever a question might be agitated in Parliament which the clergy chose to call theological, that question

ity, that none of the names to the Manchester petition had been canvassed for, and that all the signatures had been voluntary.

would be mixed up with divine worship. In this way the clergy might brawl in their own churches; and by doing so, all respect for their character would be lost. This was another proof of the active interference of the clergy in getting up those petitions which had been laid upon the table. He was sorry to find that on this occasion the rt. rev. prelate not only excused the clergyman, but pronounced a panegyric on his character. If the clergyman were right in mingling this question with the church service, what would the rt. rev. prelate say if any other person, any one of the congregation who might be of a different opinion, should rise up and contradict him? Was the clergyman in this way to turn the church into a debating society? It was not because this petition was against his opinions that he condemned the conduct of this clergyman. Had he been in church, and heard notice given of a petition praying for toleration with as much zeal as this did for intolerance, he should have viewed the transaction with equal disgust. If the clergy thus lost all sense of decency, it would be for their lordships to take into their own hands the protection of the Church, since it was neglected by those who ought to be its guardians. The rt. rev. prelate, in his vindication, had said, that the congregation of this chapel was very much dispersed, and that if the clergyman had not given this notice from the pulpit, they could not have been called together. But he must say, that this was no part of the clergyman's duty, and that it was plain, without his interference there would have been no petition at all, as the people were not disposed to agitate the question. It thus appeared that the clergy were the chief promoters of the petitions against the Catholic claims. When the absence of all petitions was noticed as a proof that the people were not hostile to the proposed relief of the Catholics, the clergy took the alarm. Two or three petitions were then presented from archdeacons. Then, as they became bolder, a few appeared from town; until at last, by the activity of the clergy, their lordships' table was covered.

The Bishop of London had neither praised nor censured the clergyman of Percy-street chapel, for he was not called upon to do either; but he had simply stated what was the fact; that that minister was a most pious and worthy man. With regard to petitions against the bill, he had exerted no influence; but if he had, he might have covered their lordships' table over and over again with petitions.

Earl Spencer regretted that such conduct should be attributed to a clergyman of whom the rt. rev. prelate spoke so highly. In his opinion the transaction was most unwarrantable, disgraceful, and shameful. He was extremely sorry to hear that a business of such a kind should have been brought forward in a church at all, and still more so, that a clergyman should take upon himself any political subject in the pulpit. He understood, indeed, that the minister of Percy-street chapel had introduced the notice respecting the signing of the petition into the body of his sermon. He should be very glad to be assured that this was not the case; but he was informed by a gentleman who was present, that the notice was introduced in the concluding sentence of the sermon, after which followed the usual blessing. It was impossible for any friend of the Established Church—and

such his conduct and his votes in that house would prove him to be—to bear of the introduction of political subjects in so sacred a place, even though it had not been in the body of the sermon, without condemning such conduct.

Lord *Belle*, as we understood, vindicated the clergy of the Established Church. He could not see why they should be so severely censured for doing that which Roman Catholic priests did in support of their religion. Besides, if one individual did any thing wrong, why were all the rest of the Protestant clergy to be blamed for it?

Lord *Clifden* said it was a great calumny—he did not mean to say that the noble lord was the author of it—to state that the Roman Catholic priests preached up hostility against the Protestants. The Catholic clergy in addressing their flocks from the altar, preached only peace and goodwill. The Protestant clergy, however, had endeavoured to light up a flame; and they might have succeeded, had they not found one already lighted up by their demand of 2s. 9d. for tithes in London under the statute of Henry VIII. An old friend of the late King, Lord *Barrington*, used to say, that when a parson talked politics in the pulpit he ought to have his ears behind him.

Lord *Lifford* concurred in the sentiments which had been expressed by the noble earl (Spencer) on this subject, and joined him in deprecating such conduct.

The Archbishop of *Canterbury* said that the transaction alluded to was quite irregular and highly improper (hear, hear); but as far as he knew, there was no other instance of the kind.

Lord *Calthorpe* presented a petition from Birmingham in favour of the bill. The names of many of the clergy and magistrates were attached to it. It was signed by nearly the whole of that class of persons whose opinions on other matters had much weight in Parliament. The names of nine bankers, and all the principal manufacturers of the town, were among the signatures. This petition must add to the conviction that the enlightened part of the community were in favour of the measures now before them. It indeed appeared that, as a well-informed class, the clergy stood alone in their opposition to this question.

The Bishop of *Lincoln* presented a petition against the Catholic claims from the clergy of the county of Hereford.

The Marquis of *Downshire* presented a petition from Belfast in favour of the Catholic claims, signed by 300 of the principal inhabitants of that town and its vicinity. The names of the present high sheriff of the county of Down, and of the two preceding high sheriffs of Antrim, were among the signatures. It was also signed by most of the ministers of the Established Church, by the bankers, and principal manufacturers. The noble marquis also presented petitions to the same effect from the Protestant inhabitants of the county of Down, including the great body of the Presbyterian population; and one from the Presbytery forming part of the Synod of Ulster, signed by seven ministers, who represented 30,000 Protestant Dissenters.

The Bishop of *London* presented a petition against the Catholic claims, from Hornsey, in Middlesex.

The Marquis of *Londonderry* presented a pe-

tion from Darlington, against further concession to the Catholics. He hoped their lordships would pardon him if he availed himself of the present opportunity to express, in a few words, his opinion on this important subject. He had been brought up in the opinions and principles of his deceased relation, of whom he hoped he might now be permitted to say, that he was a most enlightened and honourable statesman. In saying this, he trusted he did not say too much, or too far give way to the feelings of a brother. He knew the sentiments of his brother better than any other person could, and he could assure their lordships, that if there were one point on which he was more earnest and sincere than on any other, it was that an understanding should become to us this great question. It was always to him a source of much regret that the circumstances of the country, both external and internal, should have prevented him from carrying forward this measure to a successful issue. He constantly lamented that he was not able to accomplish an object that he so much desired. In cherishing this wish he followed the example of that great man, Mr. Pitt, who conceived that the Union with Ireland could never be completed until Catholic Emancipation was granted. If an absolute pledge for Emancipation had not been given on the conclusion of the Union, something was engaged to be done which so nearly approached it as to make very little difference. Had his noble relation been living, he would now have called on Parliament, in this period of tranquillity and peace, to fulfil the pledge which had been solemnly given at the time of the Union. He hoped his mind still animated the present Cabinet, and that they would proceed with this great measure, on which the security of Ireland, and the prosperity of both countries, so essentially depended (hear, hear).

Lord *Dacre* presented a petition from 200 serjeants and barristers at law, in favour of the Catholic claims.

The Bishop of *St. David's* presented a petition from the Rev. William Dixon, who had formerly been a Catholic curate at Killaloe, in Ireland, and was now a curate of the Church of England, against the bill.

The Duke of *Sussex* rose to present a petition from the Archdeacon and clergy of Sudbury. This petition certainly was not very numerously signed, but the names attached to it were most respectable. The opinions and sentiments which were expressed in it coincided with his own. Among the signatures were the names of three persons, with whom he was intimately acquainted, and whom he highly esteemed, and he believed his rt. rev. friend (the Bishop of Norwich) would bear testimony to the great respectability of their character.

The Marquis of *Lansdown* presented a petition from several members of the Universities of Cambridge and Oxford, in favour of the Catholic claims. It was signed, by two heads of colleges, a majority of the professors, and eighty or ninety other members of Cambridge University; but it was not so numerously signed by members of the other University, because the petition could only receive the signatures of such of the latter as were in London, there not having been time to send it to Oxford. Connected as he was with the University of Cambridge, it was with the greatest

gratification that he beheld attached to the petition the names of the professor of Greek, of Arabic, of geology, of anatomy, of astronomy, in short of all that was distinguished for learning and enlightened talent in that great University, thus giving a bright example of liberality to the country.—The noble marquis presented a second petition, to the same effect, signed by 100 graduates of Oxford and Cambridge.—His lordship then stated that he had to present another petition, which possessed strong claims on the attention of the house. Their lordships would remember, that a short time ago he presented a petition from Dublin, signed by several Protestant peers, bankers, merchants, and others, praying that relief might be extended to their Catholic fellow-subjects. The petition he now held in his hand, which was to the same effect, contained the signatures of a great many individuals of property who had been prevented from putting their names to the former. It was signed by true Protestant peers, who were not peers of that house, and by a great number of bankers, merchants, and landed proprietors, not members of either House of Parliament; and it might be taken as representing the sentiments of the great bulk of property in Ireland. He presented also another petition signed by 7,000 members of the Established Church, inhabitants of Liverpool, who represented property to the amount of six millions sterling, praying that the Catholic claims might be conceded (hear, hear).

The Duke of Devonshire presented two petitions; one from the Protestant inhabitants of the county of Waterford, which was signed by a large body of the Protestant inhabitants of that county; the other from Bandon, a most populous town, which had long been the great hold of Protestantism; yet now its inhabitants came forward, beseeching their lordships to consider the claims of their Catholic brethren. Their lordships had now the whole people of Ireland imploring them to adopt a measure not of indulgence, but of reason and justice. If there were danger in receiving his Majesty's Roman Catholic subjects into the constitution, by whom was it to be feared? By England, or by Ireland? In this country, where the great bulk of the people were Protestants—or in a part of the empire where Protestants numbered as one to thirty? If the Protestants of Ireland came forward and said that they apprehended danger from concession, there might then be some grounds for withholding it; but if they said, that so far from that, their happiness and very existence depended on the Catholic claims being granted, what excuse was there for refusing to do the Catholics justice? Their cause was daily gaining ground—they were advancing in wealth and intelligence, and their claims would not be allowed to sleep (hear, hear). Let their lordships, then, avail themselves of the present favourable moment; the country was in a state of unexampled prosperity; the Protestant and the Catholic were ready to meet each other on terms of cordial amity; the other house of Parliament had passed the measure; if, then, their lordships neglected this precious moment, it might never return (hear, hear). He rejoiced that this great cause was in the hands of such able advocates; he assured them they had his most cordial wishes for success, for on the decision of this question depended the existence of Ire-

land. He implored their lordships to be just to themselves, by removing the stain on the national character, and to consolidate the strength of the empire by uniting the hearts and hands of the people (cheers).

Earl Grey said that he had now to present to the house, a petition signed by the Duke of Norfolk, and the other English Roman Catholic peers, and by upwards of 30,000 persons of that persuasion in this country, praying for the removal of those laws which excluded them from the privileges of the constitution, for no fault of theirs but because they entertained opinions which it did not depend upon their will to change. They presented themselves before the house, proudly conscious of their own competence to be admitted to the full enjoyment of liberty; they humbly, but firmly, stated to their lordships, that while those disabilities under which they at present laboured continued, they would never cease to claim an exemption from them; they appealed to their acknowledged and undeviating good conduct in public—to the manner in which they discharged all the social duties of life—and to their distinguished services to their country upon all occasions when they were not prevented by the jealousy and restriction of the law from engaging in her cause. They repelled the assertion, as unjust and unfounded, that there was any thing in their religion incompatible with a free government; they referred their lordships to those periods of history when the securities of freedom were established by persons who professed the same faith, for a refutation of that assertion. They further asserted its refutation by what in more modern times existed in other countries—in Switzerland, where the Catholic and Protestant cantons were bound together in the closest union; in France, where equal rights with the Catholics were extended to the Protestants; in the Netherlands, where the Protestant states of Holland were united with the Catholic states formerly held by the house of Austria, in one bond of union and equality, under the special guarantee of Great Britain; in Hanover, where all religious distinctions were repudiated by his most gracious Majesty (cheers); in Canada, where the Roman Catholic was the established religion; in the United States of America, whose freedom and prosperity were not impeded, but accelerated and increased with a rapidity almost surpassing belief, by the equal protection afforded by the laws to all religious persuasions. These petitioners stated further, that they disclaimed what had been falsely imputed to them that night, in a petition which he had heard read with disgust, from a person who stated, that he had once belonged to the Roman Catholic religion, but did not say what other, if any, he had taken up—they disclaimed a divided allegiance to their sovereign, whose just rights they always felt themselves bound to support against all other powers or potentates who might presume to attack them. On these grounds they came before that house in the just hope that their lordships would at last relieve them from the operation of those laws which inflicted upon them the injury and disgrace of excluding them from their birthright. He wished he could say that he felt hopes of their success equal to the justice of their claims, and the expediency of complying with their prayer. These petitions came strongly recommended to their lordships by the character of the peti-

tioners, to which the noble earl (Liverpool) had more than once borne testimony, as having shown themselves most meritorious subjects in the hour of danger, in despite of every discouragement. It came recommended to their lordships, in the next place, by the concurrent application in their behalf of their Protestant fellow-subjects, particularly from that part of the empire where, as had been justly urged by the noble duke (of Devonshire), the danger, if any existed, was most to be feared, and could best be appreciated. It came further recommended by the vote of the House of Commons for the second time in their favour. Much discussion had taken place upon the state of public feeling on this question. By some it was said that it was demonstrated by the petitions which had been presented to the house against it; while it was sought by others to take from the weight of those petitions by questioning the characters of the petitioners, exposing the means taken to obtain their signatures, and by stating the countervailing effects of petitions in its favour. Between these conflicting statements, he was not able to decide; but the conclusion he came to from the circumstance that no petition had been presented against it from one county in the kingdom, or from one great town, from which a petition was not also presented on the other side; that every public meeting ended in a division in its favour; but more particularly from the decision of the House of Commons on the eve of a general election—the conclusion he said was, that if there were any strong feeling in the country against it, the House of Commons, however much it might stand in need of reform, was still so constituted, that it would at present afford a faithful echo of that feeling, and such a bill as that now before their lordships would not have been presented to this house for its concurrence. He said, therefore, that if public opinion were not in favour of this measure, it was at least in a state of tranquillity, and perfectly free from alarm upon the subject. He regretted that his Majesty's ministers had not taken it up as a great cabinet measure, instead of abandoning all the duties of Government to a chance medley of interests. Had it been adopted by a united Government, all obstacles would have been overcome; all alarm, all jealousy, would have vanished, and the measure would have been seconded by that good-will which ought to animate all the members of a great civil community worshipping the same God. The *rev. prelates* opposite disclaimed any interference on their parts to excite public opinion against the Catholics. He was bound to believe them, satisfied that they would state nothing in that house which was not true; but were not their opinions generally known on this subject, and was it too much to say that efforts would therefore be made by others to recommend themselves to their favour by promoting these petitions? However that might be, active exertions had been made to excite those opinions against the Catholic claims. Hitherto they had not succeeded, although they might yet succeed in re-kindling those sparks of animosity so productive of misery to the country. For his part, he was satisfied that this measure was one calculated to satisfy the people of England; and this, as had been stated by the noble duke, was the moment for conciliating the people of Ireland, and rendering that which was at present a Union of law a Union of interest. This great

question was now reduced to a question of time, it was admitted on all sides that sooner or later it must be carried. Was it possible that any man who entertained that opinion could take upon himself the responsibility of the consequences likely to result from delay? The noble duke (of Devonshire) had told their lordships that the present moment was favourable for doing justice to the Roman Catholics: it was most favourable, it was most auspicious, but it might not long continue so. At present, this measure of justice would be hailed by the Catholics with satisfaction; delay it a little longer, and it might be held out to them in vain. The country was now in a prosperous state, but were there not already some clouds discernible in the horizon, and was not this the time for a wise and cautious legislature to prepare for the coming storm? Now was the time for their lordships to give that which they might offer in vain in the hour of distress and danger. That had been the case with America: God grant they might not produce another separation, which would be followed by the ruin of this country (loud cheering).

The Earl of *Donoughmore* having moved the order of the day for the second reading of the Catholic Relief bill,

Lord *Colchester* said, that so far as the Parliamentary inquiry had gone, it did not remove any of the objections to this measure. Their lordships had always shown a readiness to grant to the Roman Catholics a full participation in the advantages of the constitution, but these, unless accompanied with political power, had always been rejected. It had been surmised that further concessions were necessary: it might be so. They enjoyed the right and security of property: still, if the ends of justice required further regulations for the security of property, let them be made. Civil employments were already open to them—the army and the navy had long since been opened to them (hear, from the Opposition)—but nothing would satisfy them, it seemed, but the broad road to political power. The bill now before the house demanded admission for them to all the offices under the Crown, the Lord Lieutenantcy of Ireland only excepted. Under the provisions of such a bill could any man doubt that the Protestant Church of England and Ireland was likely to be injured? He would leave to more learned men the task of tracing the tenets of the Catholic religion, through the works of individuals who had written in the older times. He would content himself with adverting to some publications which had appeared in their own days, and which had come under their own observation. The most prominent of their writers of the present day (Dr. Doyle) denied the justice of those laws by which the Church of England held its supremacy in these realms. The same opinion was to be found elsewhere. Last year, in a debate on the Catholic question, a document was referred to, in which it was broadly affirmed that the ministers of the Protestant Church would ever be detested by those who differed so greatly from them in religious belief. But then it was said, that all danger was avoided by the cautious manner in which this bill was drawn up. But did those who so argued recollect the oath of the Roman Catholic ecclesiastic? He swore to keep most secret whatever council he received from the Pope, the supreme head of

his church—*Constitutum Domini Papa tenet et emendat—et nemini dicam.* Was there no danger to be apprehended from those who were thus bound to conceal the counsels of their great leader? They had heard not a little about the ornaments of the Catholic Church in foreign countries; their learning, virtue, and piety had been greatly eulogized. But let their lordships turn their attention to the doctrines of Bossuet, Bishop of Meaux, one of those who were particularly pointed out as patterns of toleration. He said, what no doubt was echoed by all his brethren, that the power of the sword should unquestionably be used in support of the Catholic religion. That prelate concluded his funeral sermon over Louis XIV. by eulogizing, above every other act of his life, his conduct in exterminating heretics. This showed what the doctrine of the Church of Rome had hitherto been, and it remained for those who supported the present measure to show that it had undergone an alteration. This bill, it appeared, was to be connected with another measure, which would secure a provision to the Roman Catholic clergy—a kind of *regium donum*. He looked upon this as a very unfair proceeding towards the Protestants. He conceived it was extraordinary that such a proposition should have been made, without any notification, in favour of a grant of that kind, having been made on the part of the Crown. He contended that such a grant would be a virtual recognition of the Roman Catholic religion in this country—a thing which had not been heard of for ages in this realm. To that proposition he must decidedly object, because it appeared to him to be most unconstitutional. There were many other points connected with this measure which deserved the deepest consideration. It was proposed, to prevent any mischief from the intervention of a foreign power, to have recourse to the domestic nomination of bishops. But of what use was that, when, unless the Pope agreed to receive the person nominated, the proceeding became null? they had been reminded that the Roman Catholics of Hanover were placed on a footing with their Protestant brethren; but it was proper to observe, that the Roman Catholics of Hanover allowed to the monarch, that which the Roman Catholics of this country denied to the King—the right of interfering with the investiture of bishops. This was not all. It appeared, that a commission was to be appointed to examine the bulls and rescripts of the Papal see which might be sent to this country; but the superintendence of those original bulls and rescripts was not to be intrusted to any member of his Majesty's Government. Their lordships must all have heard of a publication which was now circulating through the heart of England on this subject. It was an address from the Irish Roman Catholics to the Roman Catholics of England—telling the latter expressly, that they were unjustly deprived of political rights, and not forgetting to tell them that they ought to wrest those rights from the Government of the country. A power which proceeded in this way ought to be attentively watched. The Roman Catholic hierarchy, let it be concealed as it might, possessed an authority in this country, of which the legislature ought to be jealous. Strange to say, a Roman Catholic institution, that of the Jesuits, which was excluded from Roman Catholic countries generally, had contrived, not only without law, but

in his opinion, against law, to acquire large possessions in England. When this was an acknowledged fact, who could be hardy enough to contend that there was no danger, if further concessions were granted to the Roman Catholics, of their exercising an extensive sway in this empire? It was argued that, in other countries, the Roman Catholics held an equality of rights with the Protestants. But the circumstances of those countries were very different from the circumstances of this empire. If, under a despotic government, Roman Catholics of great talents and great ambition attempted, by popular aid, to disturb the existing order of things, their career could at once be checked by the prompt exercise of power. But, under a free government, like that of Great Britain, this could not be done. Much mischief might be effected before the evil could be checked. The notification in a single *Gazette* might, in one night, alter the constitution of that house, by introducing there a number of individuals of a religion which the State had long been accustomed to look upon with suspicion. A great deal had been said of the securities which the Roman Catholics offered; but, in his opinion, the best security which could be devised for the constitution, was to prevent the Roman Catholics from any farther participation in political power (hear, hear)—to avoid all dangerous experiments, to repel all crude theories, and to resist unnecessary innovations (hear, hear). Emancipation was the great watch-word on this occasion. He would say, that the emancipation which was most necessary for Ireland, was emancipation from bigotry, emancipation from ignorance, emancipation from that foreign power whose spiritual authority was acknowledged there (hear, hear); and, finally, emancipation from the extreme subdivision and underletting of lands (hear, hear). Let this be done, and the peace of Ireland would be secured. The result of all these observations was, that the disturbances which had occurred from time to time in Ireland, were not the consequence of feelings created on account of religion. Some active political leaders might assign that as the cause, but he believed that all those disturbances had their origin on some specific grievance. As a proof of this, let their lordships turn their eyes to the north of Ireland. There the difference of religion was as great as in any part of that country; but there was there more employment and less poverty; and the consequence was, that the disturbances which were common to the south, were there unknown. The present tranquillity of Ireland was adduced as a reason for carrying this measure; but the very cause to which that tranquillity was ascribed ought to make the legislature more vigilant. They were told, that the power of priests was not so great as it had formerly been. His firm belief was, that the power was only dormant—that it could easily be called into full operation—that “it is not dead, but sleepeth.” He called on that house not to resign the high situation which they now held, for the prospect of contingent advantages. He called on them not to fill with discontent the great body of Protestants of England, Scotland, and Ireland, by conceding these demands. Fully impressed with the justice and policy of these sentiments, he begged leave to move, that the word “now” be left out, for the purpose of substituting “this day six months.”

The Marquis of *Anglesea*, in seconding the amendment, said, that in taking this course, he opposed the sentiments of many of his friends; but he had a duty to perform, which, however painful, he would conscientiously discharge. He had formerly given a different vote, but he felt that he might now, consistently with the course of proceeding which he had adopted on other occasions, oppose the breaking down of a most important barrier of the constitution. The change of circumstances, he conceived, fully justified his conduct. It appeared to him, that the different concessions made to the Roman Catholics had not been met by them with a corresponding spirit of conciliation. Each concession had given rise to new demands, and had tended only to produce restlessness and dissatisfaction. Judging from the tone and language which had recently been used, it seemed to him that nothing short of Catholic ascendancy would satisfy the Catholic body. Allusion had been made to force—it had been almost threatened that the measure should be carried by force. Six to one had been spoken of, as the relative proportion. Now, if there must be a contest—and the idea was most painful to him—he repeated, if they were to be threatened with the opposition of 6,000,000 of men, to 1,000,000—if the fight must come, he should like to meet it when the country was in the best possible situation—when peace prevailed on every side. Still, he must say, that he was, really and sincerely, a friend to the Roman Catholics. He would grant them every relief that was proper, but he would take care to grant them nothing at the expense of the constitution. Seeing the necessity of upholding the Protestant ascendancy, he could not consent to any farther extension of political privileges to the Roman Catholics. With respect to the measures which were said to be connected with the bill now before the house, he would offer a very few remarks. He did not object to an alteration of the elective franchise in Ireland—it might probably be productive of good; neither did he object to making a provision for the Catholic clergy; but he must be allowed to say, that if a Protestant King paid a Catholic clergy, he could see no reason why that Protestant King should be excluded from all power in the appointment of a Catholic bishop. He should now conclude, as his only object was to explain the ground on which he gave his vote on this occasion—which was, an anxious desire to support the existing establishment, and the Protestant constitution of this country.

The Marquis *Camden* said, that when Lord Lieutenant of Ireland in 1795, he was commanded by his late Majesty to cause an inquiry to be instituted into the state of Ireland, and he could aver that there was, at that time, a strong desire on the part of the Irish government to attend to the claims of the Catholics. It was true, that the rebellious disposition of the Presbyterians in that country, and the restlessness of the Catholics, rendered it inexpedient at that period to make concessions; but those obstacles were now removed, and he should therefore support the measure. He was as sincere a friend to the Protestant Establishment as any of the *rt. rev. prelates*; and if he saw any danger to that establishment in consenting to the bill, he would never do so; but convinced as he was, that no such danger existed, he most strongly supported the measure, in justice to the Catholics of Ireland. Al-

though no distinct pledge was given at the Union that Emancipation should be granted, yet it was certainly by an understanding of that nature, that that great measure was facilitated. The continued agitation of the subject was strongly to be deprecated, as pregnant with danger and embarrassment; and it was not less from that consideration than from the great love and affection he bore to Ireland, that he was anxious for the favourable termination of the question.

Earl *Darnley*:—During the whole course of a long parliamentary life he had supported the claims of the Catholics; and he had never heard an argument that appeared to him, of the least cogency against them. There might have been something in the language of a portion of the Catholics of Ireland, which would have been better un-uttered; but it was not to be forgotten what irritating language was used against them. When the Catholic Association was suppressed, with an immediate forbearance—a forbearance characteristic of the Irish Catholics, under all their sufferings—they at once submitted to the decree of the legislature, and in so doing gave an additional proof of their loyalty and attachment to the constitution. His gallant friend (the Marquis of *Anglesea*) had commented upon the irritating nature of the language and conduct which the Irish Catholics had manifested, subsequently to every act of legislative concession. He had heard such an imputation with surprise; and he was at a loss to discover on what facts such a charge rested. He defied his gallant friend to cite an instance of that irritating language and conduct. Nay, more; he would venture to assert, that legislative favours were uniformly received by the Catholic body with unqualified gratitude. He did not see at that moment in his place the Lord Privy Seal, otherwise he should appeal to him to give a conclusive answer to the imputation of his gallant friend. That noble earl (Westmorland) was Lord Lieutenant of Ireland in 1793. And here he must be allowed to state, in answer to that imputation, the history and character of those concessions which were granted to the Catholics in the subsequent years. In 1792 their prayer was refused; but in the year after, when the country was engaged in a war with France—when dangers from without presented themselves in a threatening form, those concessions refused the year before, were recommended to the Irish parliament in a speech from the throne, and passed by a great majority (hear, hear). Such was the history of the concessions of that period: and again he would repeat, that they were received with the unqualified gratitude of the Irish Catholics (hear, hear). But he begged the house to bear in mind that they were now called upon to extend those concessions at a period not of war, but of peace, when the country stood happily prominent in character and glory, in the enjoyment of political and maritime strength, and not to wait to do that which, being an act of justice and of policy, a season of calamity would undoubtedly demand (hear, hear). The question now stood on different grounds from what it had done at any other period. They had now before them a mass of information, particularly theological information, on which, he would take upon himself to say, their lordships and the people of England were totally ignorant before (hear, hear). He had the honour originally to move for the appointment of the



committee; it was then refused, but subsequently agreed to, and no man would venture to deny that the greatest benefit had resulted from the investigation. They had now before them the unimpeached and unimpeachable testimony of numerous witnesses on their oaths, acquainted with the precise local circumstances, stated fairly in the face of the world. When, therefore, the noble lord (Colchester) asserted, that the whole of the declarations and efforts of the Roman Catholics was a mere pretence to assist them in obtaining the power and property of the Established Church, that assertion was answered by referring the noble lord to the undoubted testimony of respectable men of that persuasion, who on their oaths declared the contrary. It was not necessary for him to bear testimony to the characters of Mr. O'Connell and Dr. Doyle; but most persuaded he was, that if the latter had the good fortune to have been bred in that pure faith of the Protestant church which their lordships professed, he would not, from his piety and learning, disgrace the right reverend bench before them (hear, hear). He begged to recall their lordships' attention to a passage in the evidence of Mr. Blake, a gentleman who possessed the full confidence of the Marquis Wellesley, and who declared that it was his conviction, that the security of the Protestant Establishment was the great link in the chain that connected Great Britain and Ireland; and that connexion he considered as one of the best guarantees of the happiness and prosperity of the latter country (hear, hear). Now, he might be told that Roman Catholic witnesses were not to be believed upon their oaths—he might be met with decrees of the council of Trent, and other councils, supposed to have the effect of defeating such evidence, but very often totally misapplied: but to reject the evidence of witnesses so respectable as those who had been examined before the committee, on such grounds, was what he would never consent to. Noble lords might talk of this bill as countenancing principles inimical to the doctrine of the Established Church: but were not the household troops opposite—the lawn legion—were not those *rt. rev.* prelates sufficient to preserve the orthodoxy of Parliament (laughter and cheers)? If they were to carry their anxiety for orthodoxy much further, they might begin to regulate at last the precise structure of the wigs which those *rt. rev.* prelates wore. And he really considered that the preservation of his own hair, or the assumption of a wig by one of that *rt. rev.* body, was a matter just as essential to the ascendancy and welfare of the Protestant Establishment in England as was the exclusion of the Roman Catholics from any civil privileges that were enjoyed by their Protestant brethren. But, besides these securities, did not the Protestant Establishment possess a host in such vigilant allies as the noble and learned lord on the woolsack, and a noble duke, who brought up with him a whole *corps de reserve* in this cause? The fact was, that political influence must in this country ever follow the majority of numbers and of property; and for this reason it was impossible, absolutely, that either in England or Scotland, the Catholic religion should ever again become the dominant one. He was perfectly persuaded that if these claims were granted that very night, the next elections would be determined, not by any religious considerations whatever, but by property and its attendant

influence. A good deal had been said about the coronation oath. Now, how could it have entered the heads of any noble lords, or any other persons, to affirm that there was any thing whatever in that oath, as it stood, to prevent and preclude the King of this country from granting any further civil power to the Catholics, he could not comprehend. If their lordships would look at the oath, they would find that in substance it was an oath which rendered it impossible to say that the admission of the Catholics to civil power could interfere with those privileges and that inevitable ascendancy of the Protestant Church which the King pledged himself to defend. It did, therefore, appear to him that all such apprehensions and alarms of danger were imaginary. At the same time he was ready to admit, that there had been a great number of petitions presented against this bill; to which petitions he was not at all disposed to refuse their due weight. If they were to argue solely on their number, it must be believed that the sense of the country was very much against this bill. But if they looked a little further, their lordships would find that naturally enough, the Protestant clergy had given the example of such petitions; and, in a religious country like this, that example was soon largely followed by the inhabitants of counties, towns, and villages; and petitions of the same kind, very numerous signed, from the cities of London and Westminster, had been presented that night to the house. It was said no improper steps had been resorted to in obtaining signatures to those petitions; he believed the fact to be so; but their lordships could not be ignorant of the facility with which almost any petitions in a crowded city would be got up; and he would engage, as a proof of it, to procure a petition at a short notice, and numerous signed, to remove even the learned lord who presided over his majesty's councils from his post. The noble earl, after contending that a very different spirit, in respect of the Catholic Claims, was latterly manifesting itself even among the Protestants of Ireland, asked whether there was a single Irish Protestant to be found, who would lay his hand upon his heart and say, that he believed things could go on in Ireland as they now were? He concluded, by earnestly insisting on the importance of the present time as the most favourable for passing this great measure; and by pointing out the utter inefficacy of the most numerous garrison that could be thrown into Ireland to keep it in peace and tranquillity, so long as the claims of her Catholic population were neglected (hear, hear).

The Earl of Longford said, that living constantly amongst a Roman Catholic population, regarding them highly as individuals, and respecting them as a body collectively, it would be readily imagined that he was most anxious to meet their views with as much favour as any man. But after mature consideration, he could not bring himself to think that this bill would answer the expectations of those by whom it had been introduced, or that it was a measure that could be put into execution without manifest danger to the constitution. It had been imputed to those who, like himself, were unfriendly to the bill, that they wished to visit with penal consequences the peculiar doctrines of Catholicism; but they did not in any degree wish to interfere with religious opinions; nor did they at all presume to measure the speculative tenets, or to regulate the

doctrines of the Roman Catholics; they were only determined that the Roman Catholics should not interfere with theirs (hear, hear). The reason of their refusal to concede the Catholic claims, was founded upon the political consequences that would follow upon their assent. Those consequences led to the perpetual interference of the Papal influence, nominally in spiritual affairs alone, but actually in the general transactions and ordinary business of life. It had been deposed, indeed, by witnesses examined before their lordships, and by others, that that interference was strictly confined to spiritual matters and doctrine; but how was the line to be drawn that was to separate in the judgment of a Roman Catholic, spiritual and temporal affairs? He was of opinion that the Roman Catholic priesthood were able to lead the people with great facility; and their own constitution was well calculated to make them subservient to the supremacy of Rome. The commands of the superior to the inferior admitted of no dispute; while the principle of subjection in the inferior was as clearly defined as the right of the superior to his obedience. If they were to be admitted, therefore, to a participation of civil and political privileges without acknowledging that supremacy which was submitted to by our own Church, the Roman Catholic clergy would be put on a higher footing than our own (hear, hear). He would further ask, if they were to admit the Roman Catholic body to the highest places in the constitution, what was to guarantee the Protestant Establishment? By the law none were admissible to offices of political trust, but those whose allegiance was perfected. Of all the dissenters from the establishment, he knew of none whose allegiance was of necessity imperfect, except the Roman Catholics. Standing in the peculiar relation to us which they held, in what light must they regard us? What must be the feeling of a really conscientious Roman Catholic towards the National Church Establishment? Were we not dissenters from their faith, usurpers of the authority of their creed, despoilers of the property of their church? We were voluntary seceders from them, as the other dissenters were from the national establishment. Such, therefore, being their feelings, there was nothing in principle, in Christian-like feeling, in policy or expediency, which required us to make the concessions they claimed or forbade their refusal. Much had been said against the entertainment of prejudices. But were the partialities all on one side? Among the peers who surrounded him he saw many who had the most perfect reasons which could exist for their partiality to the Roman Catholic interests—close connexions—family feeling—the ties of friendship. Would not these give a bias to a man's sentiment as well as prejudice against the Roman religion? It was comparatively easy to root out the belief of an established religion—it was difficult to eradicate prejudice. He had heard mention made of the right of the Catholics to this concession. He denied it totally; for he denied that the interests of the many should be sacrificed to the few. Expediency used to be another argument; it was latterly changed into necessity, which was defined to be a threatening on the part of the Catholics. This reminded him of the story of an old Irish chieftain, whose first address in levying contributions was, "Pay

me the money you owe me; if you don't"—(laughter). The question for them was, since the restrictions were imposed, had the country advanced or gone back? Was it not at a pitch of prosperity, wealth, and glory, which were never equalled by any comparison of ancient or modern history? Let them consider the power, capabilities, and resources, which had developed themselves in this little contracted spot of the earth's surface—not the fruits of extraordinary individual talents; but the slow, hardy, and gradual growth of ages, during which the oppressed Catholics, so called, had enjoyed, in common with their Protestant brethren, the fruits and advantages of those councils from which, for their own advantage as well as ours, they had been excluded. Before departing from her present course, it ought to be made manifest to the country that something would be obtained quite equal to that which she possessed; and certainly the least which could be required would be to show that the benefits at present enjoyed could not, by these concessions, be impaired or lost. The argument for adopting this measure, because it came up from the House of Commons, might be good in many cases; but in this their lordships would do best to make use of that invaluable privilege which belonged to them, of judging for themselves. For what was the fact? Was the bill supported by a questionable majority of the other house, or was it not rather a petty shifting majority—a majority merely in name? It could not be assumed that it was the sense of the country, when it was barely, if at all, the sense of the majority of the house. There was one thing which they were not to lose from their consideration. The subject had notoriously engrossed the public attention, and it was impossible that the public mind could cease to be employed with it for some time to come. According to the provisions of the constitution, the time could not be far distant when the sense of the country might be taken in the most direct manner upon this subject. They would then know with tolerable exactness how to appreciate that increase of converts, as they had been called, to the Catholic cause. They would then see if they were justified in taking the sense of that majority for the sense of the country. Concessions to the Roman Catholics could not be claimed as a right, because the right to them did not exist—justice did not exact them—expediency did not require them—the public prosperity could not but be endangered by them—and they were quite incompatible with the Protestant ascendancy, which was necessary for the well-being of the empire.

The Bishop of Norwich said, that if the learned prelates, and those of the clergy who agreed with him in thinking that it was expedient to withhold from good and loyal civil subjects the civil privileges of the government under which they lived on account of innocent, though, in their judgment, erroneous religious opinions, would be content to state their own sentiments without intimating that all true friends to our excellent ecclesiastical establishment must entertain the same sentiments, he should have felt very little disposed "in life's last stage," to have obtruded himself upon their lordships upon the present occasion; but it was quite impossible for a person in his situation to sit silent under the most distant suspicion of being deficient in zeal for the welfare of that church

of which he was a minister, because he felt strongly, and expressed plainly what he felt, whenever the wrongs, the insults, the unprovoked and cruel wrongs, which, year after year, were heaped upon more than five millions of as loyal subjects, and as conscientious Christians, as in any of His Majesty's dominions, became the topic of public discussion; and because he presumed to doubt, whether an obstinate perseverance in this narrow wretched system of exclusion, were the best method of promoting the real interest of the United Church of England and Ireland. That was the point at issue between himself and his clerical brethren, whose petitions crowded their lordships' table. He would not say exclusively crowd it; but he might be permitted to say, that with the much-to-be-lamented exception of the clergy, the education and property of the kingdom were decidedly in favour of the bill under their lordships' consideration. If it were not so, why were there no county petitions; why no petitions from the City of London; none from Westminster; none from Southwark; none, or not more than one or two, from any of our numerous, flourishing, and populous commercial towns? All were silent; "*sed domus tacent, clamant.*" They cried aloud that public opinion was unquestionably friendly to the claims of the Catholics. But the Catholics, it was said, were intolerant; and to justify this charge, recourse was had to the transactions of ages long since past—ages, when toleration was neither practised nor understood by Christians of any denomination; for Knox, and Calvin, and even Cranmer, were persecutors as well as Bonner and the Duke of Alva. Could it, then, answer any good purpose to revive the memory of facts, equally disgraceful to both parties—facts, which every wise and good man would wish, for the honour of human nature, to bury, if it were possible, in eternal oblivion (hear, hear)? An appeal was next made to more modern history, by a noble lord (Colchester) but with what justice? He would call upon the noble lord to show him a single country in the whole of Europe, so degraded by persecuting laws as England; to show him a single country, the inhabitants of which were treated with so much harshness and injustice as the Catholic inhabitants of unhappy Ireland. "But," said the noble lord, "the oppressive laws so much complained of have been repealed for half a century." A very able writer, and a very honest patriot—Sir H. Parnell—in his accurate History of the Penal Laws of Ireland, told a very different story. He would not, however, dwell upon the sad detail, as it was not his intention to aggravate but to heal (hear, hear). It had been said, that without these laws, the Established Church could not be maintained in Ireland. If it could be proved—but he thought it never would—that the worldly advantage of any particular ecclesiastical establishment of Christianity, could not be maintained without an obvious violation on the part of its members of the leading principles of the Christian religion, such, for instance, as that most excellent precept, "to do unto others, in all cases, as we would they should do unto us;" and that "new commandment, to love one another," new, both in degree and in extent, which our Divine Master bequeathed to his followers, as his last and best legacy; if, he said, even the Church of England could stand, unless its

members were called upon to act in direct opposition to these distinguishing precepts of our holy religion, he should say, without the smallest hesitation, let it fall (hear, hear); for it must never be forgotten, that an ecclesiastical establishment was no part of Christianity, but the mode only of propagating its doctrines; as had been accurately and justly remarked by Archdeacon Paley. It seemed, then, to follow, as a legitimate consequence, that the outward building, the mere fabric of the temple, would hardly be worth preserving, if that charity, which was the guardian angel of the Inner Temple, had taken its flight, and "the glory was departed" (hear, hear). He should, perhaps, be asked—indeed, he had been asked more than once—if he felt prepared to abide by the result of his opinions; a result which, in the judgment of some, must be attended with the entire loss of those pecuniary advantages, and of the honour of a seat in that House, which he derived from his present situation in the Established Church? To this question his answer was very short, and very sincere. Worldly advantages, of whatever description, which could only be secured by the oppression of five millions of loyal fellow-subjects, and conscientious fellow-Christians, had no charms for him; they were poor and valueless; he did not wish to hold them by so bad a tenure; on the contrary, he would gladly relinquish them to-morrow, and "eat his bread in peace and privacy," if, by so doing, the cause which he had at heart could be effectually promoted (hear, hear). These were his genuine sentiments; they had been the same for more than half a century, and he was now much too old to change them. He dared not, however, rashly say, as had been said, that whatever alteration of circumstances might occur in this ever-shifting scene of human life, these sentiments would remain unaltered; but he would say, that reflecting seriously upon what had passed, and was still passing before his eyes, there was very little probability of his thinking differently from what he now did. With respect to the political part of the subject, it was not in his province; and if it were, he should be unwilling to weary their lordships' attention by a repetition of those unanswered and unanswerable arguments which had been so often urged in behalf of the Catholics, by many of the best and wisest men of the age.—He must, notwithstanding, venture to observe, that they had once more an opportunity of doing tardy justice to a large portion of his Majesty's subjects,—an opportunity which, if neglected, was likely to be followed, and at no very distant period, by events which neither the wisdom nor the power of government might be able to control.

The Bishop of Chester said that he rose with considerable embarrassment; an embarrassment proceeding not only from the unspeakable importance of the measure, which, in whatever point of view he looked at it, presented only a choice of difficulties, but an embarrassment arising from finding himself opposed in opinion to many of those whose virtues he revered and loved, whose friendship he held to be among the most honourable distinctions of his life; whose wisdom he had every reason to respect; and to whose political experience he felt he ought to bow. But there were acts of duty, the performance of which cost a pang, only compensated by conscientious persuasion; and on this question he had at least the satisfaction of knowing,

that his conviction was formed after much painful inquiry; though in justice to himself he ought to add, that it was in opposition to his early opinions. The change, indeed, was not recent; but there was a time when his mind, imbued with those principles of civil and religious liberty, interwoven with the rudiments of education in this country, and struck with the severity of the penal code, in some of its most hideous features, arrived at the conclusion that the Roman Catholics ought not to be excluded. But when he became better acquainted with the doctrines and practices of the Church of Rome—when he understood its incompatibility with our own Church Establishment, and the importance of preserving that establishment by co-ordinate disabilities—when he reflected on the innumerable evils which Popery, he did not say the Roman Catholic religion, had at various times brought upon the world—when he became convinced that the spirit of that ecclesiastical despotism was unchanged, that “if it crouched it slumbered not,” but still awaited an opportunity for re-exerting its energies, and grasping its prey; he felt called upon to retract his early errors. If aught were wanting to the fulness of conviction upon this subject, he should have found it in the evidence lately placed in their hands—nay in the very portions of that evidence on which the advocates for emancipation relied. Those advocates, according to their own representations, were guided by a light outshining the brightness of history, experience and common sense. It might be said, that he came to this question, no impartial judge; and that night, for more than the tenth time, it had been, not insinuated, but asserted, that the Bench (of Bishops) was influenced by interested motives, in opposing the project. But, he asked with confidence, and let the question be repeated to the country—what right had any man to impute to the Protestant Bishops sordid motives upon this question—he meant what grounds of history or of observation could be produced in proof? Were they motives of sordid and personal interest which induced the seven Bishops to oppose themselves to a Popish King? Did they embrace imprisonment, deprivation and persecution, rather than swerve from duty, because they were governed by feelings of the basest kind (hear, hear)? Ambition, indeed, it might be—that just and laudable ambition, which he trusted had not ceased to burn in the breasts of their less illustrious successors, who, nevertheless, might be equally willing to prove themselves the vigilant sentinels and intrepid champions of the Church, and, if need be, its martyrs (cheers). Interested motives might, with much more truth, be ascribed to some noble lords who avowed their support of this measure, from an apprehension of temporal consequences in the event of its rejection. A great deal had been said of the injustice and cruelty of debarring four or five millions of fellow-subjects of their indefeasible and inalienable rights; but if this question were to be determined upon principle, it made no difference whether the claimants were forty, or four millions. If concession were just let it be made to four men as well as to four millions; for, in a matter of mere justice, the element of numbers ought not to enter into the calculation. But what was the meaning of “indefeasible and inalienable rights,” which some had called civil, and others with more pro-

priety, natural rights? Did any noble lord seriously mean to contend, that individuals possessed any rights which they were not liable, under peculiar circumstances, to be called upon to forego for the public good? Was not this principle recognized by our constitution, and to a degree that seemed to have escaped the notice of noble lords, who talked so loudly of the injustice of excluding from political power, a certain number of the King's subjects; for that after all was the real question. It seemed to him as unjust to exclude an individual from a share in the enactment of laws, merely because he had not a certain amount of property, as to exclude him because he professed tenets incompatible with the religion of the state. He could find no real difference between the two cases; and the only answer was, that in the one case the criterion of qualification was certain, and in the other uncertain; in both cases the civil right was concluded, because it was required by public expediency. The very same principle was recognized by the present measure. It appeared to him, that the right to have a voice in the legislature was not more sacred than that of having a voice in the election of legislators, and that to deprive any body of men of that right, was a greater violation of natural justice than to shut them out of the legislature entirely. Yet this was the very injustice which the advocates of the bill proposed to effect. The ablest supporters of civil right were obliged to admit that it was limited by expediency, and might be retracted or withholden. The Catholics themselves recognized this principle of exclusion in all their applications to Parliament, for their bills uniformly admitted the propriety of excepting the office of Lord High Chancellor in the proposed eligibility. But while some admitted the justice of a principle of exclusion, they denied that opinions ought to disqualify the individual for office: they said a man was no more answerable for his opinions, than for the colour of his hair, or his weight or strength. To this general assertion he could only reply, that there were peculiar and personal defects in the human mind for which it was the misfortune of the individual to suffer, although for them he was not morally responsible, and that the person must patiently endure the inconvenience for the sake of the community of which he was only part. So much upon the argument of general right. Then came the real question—whether the opinions of the Catholics were such as to disqualify them from certain civil rights, more especially those of a legislative description? This was followed by another question—whether the danger of the present crisis was so imminent as to call for the violation of an established constitutional principle, for the sake of avoiding it? Connected with these considerations was another—whether the proposed remedy was calculated to produce the supposed advantage? With respect to the last consideration, all he should say, was, that if there were one point clearer than another in the history of Ireland, it was—that up to the most recent date, the disturbed condition of that country had little connexion with the Catholic question. The wretched peasant was oppressed by a more malignant and exasperating, though not an incurable disease. One of the most distinguished witnesses who had been examined before the committee, had proved that the most exciting

and proximate cause of disturbances in Ireland, had arisen from the extreme misery of the peasant, which required a different remedy from that now proposed. The property in the soil belonged, to a great extent, to absent proprietors, who intrusted the management of their estates often to unscrupulous agents. A system of exaction was engrained upon the mode of tenancy; one claim for rent was accumulated upon another, until an amount was squeezed from the soil more than the soil could fairly yield (hear, hear). Such a state of society could be improved by no such remedy as the present bill; it would require measures of a stronger and more efficacious character; it would require the introduction of a better religion, a purer administration of justice, a revision of the revenue laws, a general system of education; and last, though not least, a return of the proprietary of the country to the estates which they possessed within it (hear, hear). A relief from wreckless poverty, from barbarous superstition, and from inveterate insubordination, was the emancipation of which Ireland stood in need,

"To raise her wretched and degraded sons  
From listless sloth and reckless poverty."

It was not till 1823 that the great mass of the Catholics of Ireland began to talk of Emancipation; and the meaning attached to the word by some of them was, a restoration of that property to their church of which it had been deprived at the Reformation; and by others, a recovery of the lands which had been forfeited at different periods of their history. Whichever of these opinions the mass of the Catholics entertained, they would be greatly disappointed at finding that this bill, if carried, would bestow upon them neither of the boons which they expected. He would not presume to say what effect that disappointment might produce; but be it what it might, it would owe its origin to that knot of political agitators, who had cast that leaven into the lump, which had disposed it to ferment, in order that whilst it was heaving and swelling, they might knead it at will to their own advantage (hear, hear). Until the Catholic Association commenced its operations, the Catholics of Ireland cared little about emancipation. Nor was that apathy on their part at all surprising, since what concerned only the advantages and privileges of a few, could not, without some adventitious aid, strongly interest the feelings of the many. That the desire of emancipation was not the leading cause of the disturbances which had so long distracted Ireland, appeared from this circumstance—that those disturbances had not diminished according to the relaxation of the penal code. It was lamentable to observe that those who, as well from their profession as from their situation in life, exercised an influence over the Catholic population, had not communicated to them the fact of such relaxations—for they were even ignorant of the fact—which might have proved a powerful motive for contentment. What was the cause of their conduct he would not pretend to say; it was in perfect keeping with the character of those, who, having distant objects in view, thought nothing of their triumph over preliminary obstacles; of men who considered the admission of the lay members of their church into the legislature as valuable only because it facilitated the reco-

very of the power which they had lost, and who deemed any thing short of that admission as utterly worthless and contemptible.

"Actum inquit, nihil est, ni Pæno milite portas

Frangimus, et mediâ vexillum pono Suburrâ."

Truly had their religion been described in the celebrated remonstrance against Popery presented by the House of Commons to James the First:—"It hath a restless spirit, and will strive by these gradations; if it once get but a connivance, it will press for a toleration; if that should be obtained, they must have an equality; from thence they will aspire to superiority, and will never rest till they get a subversion of the true religion" (hear, hear). He was satisfied that the subversion of the Protestant religion was the ultimate object of the Roman Catholic hierarchy, and that they would be satisfied with nothing else. The present bill, therefore, would not put an end to the distractions of the country; for if the lower orders of the Irish Catholics had any feeling at all upon the bill, it was one which went much further than the supporters of it supposed, and which the measure itself would by no means satisfy. A witness of the name of Macarthy had admitted, that even if this bill were passed, the question of Emancipation would still be made a handle of by political agitators. Could their lordships think that a handle would not be found in the few remaining exclusions to which they would be subjected, in the inferiority of the Catholic church, and in the want of that establishment which it had formerly possessed? He was persuaded that the object of the Catholic hierarchy was the subversion of the Protestant church, and the erection of their own upon its ruins; and he asked whether he could be blamed for opposing this measure, which, in his conscience, he believed would afford them every facility in accomplishing their object. They were all acquainted with the notions which had recently been promulgated with respect to church property;—they all of them recollected the readiness with which the Irish House of Commons passed that abominable law, respecting the tithe of agistment. Daring as that attack had been upon the property of the Protestant church of Ireland, it would be followed by still more daring attacks, when 20 or 30 Roman Catholic members should be seated in the lower house, forming a compact body upon all questions relating to tithes—a body, too, moving in the train of that portentous comet, which "from its horrid hair shook pestilence and war." He now came to that part of the question on which he conceived himself more competent to give an opinion—namely, the dogmas of the Roman Catholic church. A very distinguished member of the Catholic body had told the committee, that unless he conceived this measure would strengthen the Protestant church, he would not give it his support. Now, if that individual's opinion were to be taken as a criterion of the sentiments of the mass of the Catholics, he would say that nothing more fallacious could be imagined. He trusted that their lordships were not about to form their opinions of the feelings of the Roman Catholic population towards the Protestant church from the testimony of a few able Catholic advocates, guarded on all points, and perfectly untheorized to state the opinions of the great body to

which they belonged. If they wished to learn the opinion of the great mass of the Catholics of Ireland, they must look to their public meetings, they must attend to their public orators, and to the topics which they selected, as going most directly to the hearts of their hearers; they must hear them denouncing the Protestant church of Ireland as a splendid evil, as a gorgeous pest, and as an incubus on the prosperity of the country; they must listen to the exclamations with which such language was received; and they must form their judgment from those circumstances, and not from the opinions of individuals who had a direct interest in the evidence they gave. To show the inflammatory nature of their speeches, he would quote a passage from a remarkable speech of Dr. Dromgoole, which was received with loud acclamations, and which had since been published in a book that had been carried to the Papal throne, and had been declared to be so able and so Catholic, as to be worthy a casket of cedar and gold. In that speech, Dr. Dromgoole, speaking of the Protestant church, had said, "She shall fall, and nothing but the memory of the mischief she has created shall survive her. Her time is nearly run; and when the day of her dissolution, which is at hand, shall arrive, shall Catholics be bound by the oath which she has imposed—an oath which, in their consciences, they believe to be improper?" And, in another passage, the learned Doctor said, "The Church of England is the eldest of these heretical sisters; I view with horror those sickly sprouts, and their degenerate branches; the time will come, when they shall be gathered up, and cast into the fire; and they shall burn!"—

"Tandå lucebit in illâ  
Quâ stantes ardent, qui fixo gutture famant."

He believed that these sentiments pervaded the whole body of the Roman Catholic clergy. He once had thought that the Catholics had cast an eye upon the tithes of the Church; but he was now of opinion that they did not so much wish to appropriate them to their own use, as to take them from the Protestant church. In that opinion he was strengthened by the statement of a petition presented to the House of Commons, on the last day of May 1823, in which certain Catholics declared that they could not be satisfied without a repeal of the Union, the abolition of tithes, and the annulling of all corporations. The writer, calling himself J. K. L., said, "That Roman Catholics, as Roman Catholics, entertain no designs hostile to the Protestant church; but as individuals engaged in agricultural pursuits they are interested in taking away tithes from the Establishment." This appeared to him to be much the same as if a disappointed suitor in the Court of Chancery should go up to the learned lord on the wool-sack, and say,—“May it please your lordship, I bear no ill-will to you as Earl of Eldon; but as a disappointed suitor in the Court of Chancery, I hit you, as Lord Chancellor, a knock on the head” (a laugh). The same writer (J. K. L.) declared, that the efforts to amend Ireland had been regularly marred in consequence of the exertions of the Protestant church, and that all the murders which had stained the Irish annals, had been carried on under, or had been occasioned by her edicts. Yet this was the same church which had pro-

duced a priesthood, to whose zeal, activity, and forbearance, every witness who had been examined before the committee had borne testimony—a priesthood which, in the moral desolation of Ireland, remained the Goads of the desert, and gave to the eye some points on which it could rest with pleasure. He hoped that he felt no animosity towards the Catholics as a body; he hoped that he was not inclined to press hard upon an individual who, like himself, was human and liable to error; he hoped that he was not prone to use harsh language to any member of the same sacred profession to which he himself belonged; but there were emergencies on which truth ought to be spoken out; and he therefore now asked their lordships what weight they ought to attach to the evidence of a man—for this J. K. L. was understood to be no other than Dr. Doyle—who, after casting this poisoned arrow, and hurling this sportive firebrand into the Protestant church, thereby convicting himself at once of the bigotry of Rome, and of the ferocity of jacobinism, came down to the committee, with glowing words, to soften the calumnies he had uttered, and to “hint the fault, and to hesitate the dislike” which it was no longer expedient for him openly to avow. He would now pass by a natural transition from Dr. Doyle to the Pope (a laugh). He contended that the distinction between the Pope’s supremacy in things temporal and in things spiritual existed only in theory. Every Catholic allowed that the Pope had an ecclesiastical supremacy; and that supremacy involved in it certain temporal jurisdictions. Did not the Pope nominate to all the ecclesiastical benefices in Ireland—to bishoprics from 500*l.* to 1500*l.* and 3000*l.* a year; and had he not, by such nomination, a well disciplined army of 3000 ecclesiastics in that country ready at any moment to work his bidding—as army, whose generals he appointed, and who, if they were not the partisans, had at least been the nominees, of a Pretender to the British throne? The Romish Church claimed a power, a sort of *ultima ratio* *Papæ*, by which subjects were released from their allegiance by a Bull somewhat similar to that issued by Pius VII. to the French people, releasing them from their allegiance to the Bourbon family. There had been three comparatively modern examples of the exercise of this power. The first occurred in 1643, when the subjects of Charles I. were released from their allegiance by a Bull obtained in Ireland; a second in 1729, when the subjects of George II. were released from their allegiance by a Bull also obtained in Ireland; and the third was the instance he had just referred to, of the Bourbons and Pius VII. He acknowledged that these bulls were mere *bruta fulmina*—that they were mere empty displays of power (hear, hear! from the Opposition); but empty as they were, they had not been without their effect upon conscientious Catholics. Dr. Doyle had admitted that the Pope, in a rescript to Vienna, in 1809, had said that he still possessed the power to depose princes, though it was not at present convenient to exercise it. He would always contend that such a doctrine disqualified the holder of it from a seat in a Protestant legislature. He knew that Dr. Doyle had declared, that though this doctrine was embodied in the decrees of several councils, it had now become obsolete and disused. He was afraid that it was only as obsolete and

disused as the strength of a tiger, whose claws were pared, but whose savage disposition remained untameable; or, as a sword, which rusted in the scabbard, because you would not give your enemy an opportunity to draw it and to plunge it into your own bosom. The doctrine, he repeated, was believed by conscientious Catholics, and all other Catholics were unworthy of legislative indulgence. He had a few words to say upon another offensive doctrine of the church of Rome; and that, not only because it had never been disavowed by the leaders of that church, but because it was now publicly taught in the religious college of Maynooth. The doctrine to which he alluded related to the inviolability of oaths. He thought that no man, who reflected for a moment on the appeal to Heaven which was made in taking an oath, could assent to the power of any human being to absolve him from it; and yet, a contrary doctrine was preached in the college of Maynooth, and promulgated, in Dr. James Butler's book, under its authority. It was there stated that an unjust oath was not binding; and after laying down that position, it was asked, "What is an unjust oath?" "An oath that is injurious to God, my neighbour, and myself." That was a doctrine very different from that of the book which said, "The just man who sweareth to his neighbour, disappointeth him not, though it be to his own injury." He had now stated the principal reasons which induced him to withhold his consent from this measure. Instead of being calculated to heal dissension and abate animosity, he thought it comprehended in itself abundant materials for civil commotion. It was, besides, an inroad upon the constitution we had received from our ancestors, and would serve as a stepping-stone to the Catholic to scale the walls of the Protestant establishment, and invade its most sacred interests. When, however, he said this, he was bound to give his testimony to the meekness, candour, and liberality of the Catholic clergy with whom he was acquainted; and he would add, that in his own diocese there was a Catholic gentleman, of large fortune, worthy—he said it in candour—of a better faith, who had supported a national school for many years near his own residence, entirely at his own expense (hear, hear). Their lordships, however, lived in times when it was not easy to predict the consequences of any given measure. But he placed great reliance on that benign Providence which had hitherto sheltered the Protestant Church, and which, so long as it performed its duty to the country, would not withdraw its support from it. They were, however, bound to act according to the dictates of human wisdom, and so acting, he could not see why they should pass this bill to guard against a contingent danger, or why they should sacrifice a single security to satisfy a problematical necessity. These were some, but not all the reasons, which induced him to give a conscientious vote, in opposition to the measure (loud cheers).

The Earl of Limerick defended the gentry of Ireland from the sweeping charges brought against them by the rt. rev. prelate who had just sat down, in a speech which seemed to him unequalled for intolerance and violence. The rt. rev. prelate had attributed many of the evils which desolated Ireland to the absence of her gentry; why had he so carefully abstained from noticing the absence of her clergy? There was a wide difference between absentee land-

holders and absentee clergymen. The former would be slaves; were they compelled a ways to reside on their estates; but the latter was bound to reside upon their livings, because they received payment from the state on condition of doing so. The rt. rev. prelate had used language which could not fail to irritate all classes of people in Ireland, and had all but advised the making of interminable war upon the Catholic part of it. There was a rt. rev. prelate near him, who had given him a noble example to imitate. That rt. rev. personage, in a speech full of eloquence, wisdom, and Christian piety, had pointed out to him the duties of Christian benevolence (hear, hear). Instead, however, of following his venerable brother, the rt. rev. prelate had started off in the opposite direction. The difference between the two was extreme;—look on this picture, and look on that. The rt. rev. prelate seemed to say to the house, "Meddle not with the Ark of the Lord, or with its anointed"—that was, its treasure (a laugh). He had said, that the Catholic bishops of Ireland were nominated by the Pope. This was not the case. Three persons were nominated by the Irish Bishops, and the Pope was obliged to select one of them. There was no Catholic bishop in Ireland with a revenue of 3,000l. a year! Whence was such a revenue to be derived? 'Not from see lands, not from fines, but from the parish in which the bishop resided. And how was his revenue collected? From the poor under his care, in sixpences, and shillings, and half-crowns—paltry sums which the rt. rev. prelate opposite would not like to have his income eked out in (hear, hear). The duty, too, of the Irish bishop was admirably performed—none of them were to be found in Cheltenham (hear)—none in London (hear). They were present with their flocks, in health and in sickness, and were at all times ready to afford them every consolation in their power. The idea that such men were not to be believed upon their oaths, was ridiculous. He apologised to the house for the unpremeditated sentiments he had offered to its notice; but he should have held himself wanting in duty to his country as an Irishman, if he had allowed the asserctions of the rt. rev. prelate to go forth without contradiction.

The Marquis of Lansdown began by observing, that the rt. rev. prelate (of Chester) had laid it down, that the enjoyment of every civil right should be regulated by expediency. Now if the rt. rev. prelate rested his objections on that ground, he was, in all his other arguments, combating with a shadow; for if the ground of political expediency existed, the discussion on the theological grounds was unnecessary. If, however, as he was prepared to contend, the expediency for excluding six millions of people from their civil rights had long ceased to exist, it must follow that they ought to be admitted to the enjoyment of those rights which were theirs in common with all other British subjects. He would contend, that not only had the expediency of exclusion long since ceased, but that a regard for the security of property, for the peace of the country, and for the stability of the Church itself, dictated the propriety of putting an end to the system of exclusion. The rt. rev. prelate had said, that in the course of his recent studies, he had found reason to change his opinions on this question, in consequence of certain evils connected with the state

of Ireland; but he had not informed their lordships how many of those evils had arisen out of the nature of the Catholic disabilities, nor how a remedy should be applied without removing those disabilities; he had not stated how they were to acquire in Ireland a Catholic gentry and yeomanry without a system by which the one and the other might be protected and conciliated. The *rt. rev. prelate*, in enumerating the causes which produced the disturbed state of Ireland, had overlooked one circumstance which he might have remembered—that in that country there was the singular anomaly of a Church Establishment which did not represent the religion of the great body of the people (cheers). How would he apply any remedy which would secure the stability of that church without embracing a measure that would conciliate the great body of the people? If they wished to preserve the Church Establishment in that country, if they wished to ensure stability to its Government, their measures must be bottomed on the affections of the great mass of the people (hear, hear). The *rt. rev. prelate*, while he deprecated any attacks on the motives of individuals, had indulged himself in a great latitude that way, and had made a serious charge on the great body of the Irish Catholics. He charged them with a desire to overturn the Church Establishment, and to regain possession of the forfeited estates. But on what authority did he make that charge? On the authority of a Protestant witness (hear, hear), in opposition to every tittle of evidence which had been given on the subject by Catholic bishops and priests, as well as every member of the Catholic laity who had been examined before their lordships' committee. Surely the *rt. rev. prelate* could not have read the evidence; for Protestants and Catholics concurred in stating that no property was considered more secure than the forfeited estates, and indeed in one respect they were more valuable than other property, inasmuch as they had a clearer title. If any facts were necessary in support of the oaths of the Catholics on this subject, it would be found in their practice; for those Catholics whose wealth had enabled them to purchase property, had, to a great extent, become the purchasers of those very forfeited estates (hear, hear). Would it be supposed they were anxious to invalidate the rights of those from whom they derived their own by purchase? Yet it was on such grounds that the *rt. rev. prelate* had rested his tender apprehensions for the security of those Protestants who now held forfeited estates (hear, hear). It was true, that one of the grounds on which he himself supported the present bill, was, the insecurity to which Irish property would be exposed from its refusal; but the insecurity which he dreaded was that which must ever exist where discontent prevailed among the great body of the people. The *rt. rev. prelate*, in his remarks on the conduct of certain individuals in Ireland, had observed, that no feeling of discontent prevailed in the country until the Catholic Association was formed. Did he take into consideration the causes which produced that Association? Why were there none such in this country? Because no ground for similar discontent existed; because no feeling of such injustice to the great body of the people prevailed—a feeling which, while it was suffered to remain, would be daily breaking out into new forms, until the great question which produced it was set at rest. The *rt. rev. pre-*

late had quoted many violent opinions with respect to the Church of England, which he commented upon, and condemned as the opinions of the great body of the Catholics. Many of those opinions had been quoted from a speech delivered by a Dr. Dromgoole, some ten or fifteen, or perhaps twenty years ago, for he really did not recollect. Upon these the *rt. rev. prelate* had fastened, and taking them as articles of the Roman Catholic faith, had urged them as arguments against the bill before the house. Was this fair? Was it treating the Catholics with common justice, to fasten upon them doctrines which they disavowed, merely because they happened to be used by one of their body? Their lordships had heard of the writings of a rev. bart. of the Church of England, the Rev. Sir Harcourt Lees. Would the *rt. rev. prelate* approve of those writings? Would he subscribe to all the opinions they embraced? Would he even approve of the principles contained in some of the petitions presented on this subject? Would he be disposed to sanction all those principles as doctrines taught by the Church of England? Undoubtedly not. Why, then, should he use a mode of reasoning towards others which he would think it unjust to have applied to himself? Why should he condemn men by attributing to them opinions and doctrines which they wholly disavowed (hear, hear)? But to revert to the ground of expediency. If the question were allowed to rest on that ground, there was an end of the objection respecting transubstantiation, and other doctrinal points—there was an end to the objection resting on the belief of the spiritual supremacy of the Pope, beyond how far that belief was calculated to operate on six millions of people so as to disqualify them from the enjoyment of their civil rights. He would readily consent to view this measure as one of expediency; and taking advantage of the *rt. rev. prelate's* admission, that the spirit of Protestantism was never more prevalent in the country, since the Reformation, than it was at present, he would ask, if that were true, what need had the Church of England to bear on the crutches of the penal code? What had the Protestant Church to apprehend if this bill were passed; or what had it to gain by its refusal? He had expected, that when the *rt. rev. prelate* spoke of his recent studies on this subject, he would have stated to their lordships facts connected with the present opinions and conduct of the Catholics. Instead of this he had stated that bulls had been sent over by a Pope to depose Geo. II. It was true, the *rt. rev. prelate* admitted that these bulls had had no effect; but he added, that they affected the minds of the Catholics, though they did not arm their hands. Now he was prepared to contend that those very bulls, and the reception they met with in this country, were the strongest proof of the truth of what Dr. Doyle had given in evidence—that there was a line drawn by Catholics between the ecclesiastical and temporal power of the Pope—a line which a noble lord (Colchester) could not see—a line, beyond which if the Pope attempted any act of temporal power in this country, the obedience of the Catholic ceased. When the allegations of their own doctrines and opinions were not allowed, it was right to put in the conduct of the Catholics of this country, where their rights were limited, and in others where they were not restricted, in order to show, that their allegations were borne out by their practice. The



Catholic religion was so dark and hidden, so lost in the obscurity of past ages, as to be traced out only by the research of the antiquarian. Its present tenets of doctrine and discipline were well defined and understood. Why, then, was it necessary to go for objections to the Catholic religion as it now existed, to the tenets which might have been held in it centuries ago! Suppose a lecturer on electricity or astronomy were to say to his hearers—"You must not attend to the state of the atmosphere, or the appearance of the heavens, but you must look to the principles adopted by the ancient founders of these lectures—go to the first volume of the Philosophical Transactions, and there you will find what you must take to be the present state of the science." Would not such doctrine be deservedly held up to contempt—would it not argue in the lecturer an utter ignorance of the present state of science? It would be equally unjust to argue the question before their lordships without reference to the actual state and opinions of the Catholics as they existed at the present day. True philosophy, as Bacon said, was the art of interpreting nature: and a legislator should adapt his measures to the condition of men as they then existed, and not to that in which they might have been at a former period. Let their lordships look at the conduct of Catholics in the different states of Europe and America, and see whether it bore out the allegation that they were hostile to a free constitution, or were found disloyal subjects when in the service of Protestant princes. Their fidelity to Protestant princes had been proved in every Protestant state in Europe; their attachment to a free constitution was proved by their conduct in America, and their disposition to admit religious liberty—by the readiness with which the state of Maryland, composed principally of Catholics, admitted the most tolerant regulations with respect to religious worship. He appealed to the learned lord on the woolsack, whether, in the course of his official experience, he had ever known of any Catholic minister or general who had betrayed the secrets of a Protestant prince, or swerved from his allegiance or duty in obedience to the Pope? And yet in the United States of America, and in the States of Holland, no obstacle was offered to the Catholics taking a part in the government of the country; and even the subjects of a despotic King of Prussia, and of a despotic King of Denmark, lived in the hope of being called into every situation that could gratify their ambition. But in England every thing was different; the Catholic faith was considered to be in opposition to the Established Church, and it was, therefore, in vain for any one who professed that faith to endeavour to increase their knowledge, or improve themselves in any branch of learning; their creed formed an insuperable barrier, excluding them from all honours and all dignities (hear, hear). He himself was a conscientious professor of the Established Church, and he would give it as his firm opinion, that the surest way of strengthening that church was by forming an union of conciliation with the Church of Ireland (hear, hear). It was the custom to speak of the opinions given by the *rt. rev.* prelates in that house as infallible; and certainly, if that house were engaged during its task of legislation in the articles of religion, or in giving effect to any peculiar doctrine he should be

inclined to bow to their authority. No man could listen with more reverence than he did to the arguments and opinions of those *rt. rev.* prelates; but when the question was no longer the choice of any particular doctrines but what would be their effect on the opinions of men, he confessed that he could not help suspecting that the votes of bishops might be as fallible, and perhaps even more fallible, than those of other lords; owing to the peculiar bias that their minds experienced on matters at all connected, however remotely, with religion. If he might be allowed to give an example of the false prophecies that that house had from time to time witnessed, he would mention the period when it was proposed to introduce into that house sixteen Scotch peers. That proposition was no sooner started than it was heavily denounced by several *rt. rev.* prelates, who used pretty much the same language about it as was used by their successors on the question of Catholic Emancipation. The alarm was taken, and it was asserted that the whole nation were to be turned into Presbyterians by the sixteen noble lords; and one bishop, in the warmth of his zeal for the Protestant establishment, went so far as to compare the introduction of sixteen Presbyterians into the house to the mixture of so many foreign ingredients in the caldron, which would have the certain effect of making it boil over till it burst. Yet, in spite of all this remonstrance and invective, it was a curious fact, that in the history of the majorities of the house, the bishops and the Scotch peers were almost invariably found to vote together; nor did it appear that there was at the present time one single Presbyterian more than there was the day the measure was carried. Another instance that he would quote was the circumstance of the repeal of the sacramental test in Ireland about a century ago; on that occasion a man whose wit, whose talent and whose intellect could not be doubted—he meant the great Dean Swift—had been so far led away by prevailing opinion, that he ventured to prophesy, that if that test were once repealed in Ireland the religion of that country would be entirely changed, and the whole of the inhabitants would become Presbyterians. After some years had elapsed, the sacramental test was repealed, and their lordships very well knew that there followed no attempt to introduce the Presbyterian religion, and that it had not increased in numbers. In the early part of his late Majesty's reign, a bill was passed for the relief of his Catholic subjects in Canada. The introduction of the measure caused a great clamour, and an eminent Divine published his opinion in the same vein of happy prophecy to which he had already alluded, that the measure would introduce the supremacy of the Pope into Canada, to the great disturbance of his Majesty's Government, and to the final throwing off their allegiance, so that the French court would be able, through the assistance of the Pope, to separate them from the other States of America. Let them look at the result. The intrigues of the French king were indeed employed to detach the States from the allegiance they then owed to the sovereign; but where was it that those intrigues had succeeded? In the States professing the Presbyterian faith, while Popish Canada remained true and loyal to King George III. Yet now their lordships were to be told that no trust

could be put in the Roman Catholics (hear, hear). The cause, however, of Emancipation was visibly advancing, and he was sure that the house would at length be absolutely forced into the deliberation of the real question, which was, whether Parliament would chuse to return to the old system of governing the Catholics by coercion, or complete that system of conciliation which had already been so fortunately undertaken? Conciliation had in part been tried, and had in part flourished in proportion; and he would assert, though it was in opposition to the declaration which had fallen from the *rt. rev. prelate* who had just spoken, that the people of Ireland were essentially improved in their moral and religious condition, and that conciliation had already produced the most beneficial effects. It remained for the Church of England to assist in making the concessions which the Catholics still claimed; and it would be more becoming of that church to be a little more confident in her own strength, and to consider, whether, in ceding rights to another religion, she was in any way diminishing her own privileges; or, whether it would not probably be the means of gaining new friends, and increasing that admiration which it was his pride to believe other religions entertained for the Church of England (hear, hear). He would conclude by reading the opinion of some of the greatest men that England had ever produced—Lord Somers, Lord Peterborough, the Bishop of Salisbury, and the Duke of Devonshire; who had laid it down as their opinion, that an Englishman could not be reduced to a more unhappy condition than that of being put by the law in an incapacity of serving his king and country, and therefore nothing but a crime of the most detestable nature ought to put him in such a situation.—In giving his support to the present measure, he wished it to be most thoroughly understood, that he was not concurring at any other measure that had been passed during the present Session. He supported the bill upon its own merits. He did not imagine that it would form a panacea for all the evils of Ireland, but he thought that it would lead to those further measures, towards which alone she could look for improvement or lasting tranquillity (hear, hear).

The Earl of *Liverpool* observed, that the situation in which the house stood with respect to this question was equally novel and inconvenient. In consequence of events which had transpired prior to the assembling of parliament, the house had found it necessary to pass an act for putting down the Catholic Association, and also to institute an inquiry into the state of Ireland generally—an inquiry which had also been entered upon by the other house. Now, he should certainly, under such circumstances, have thought it right to await the result of those inquiries, and at all events to legislate only upon a full investigation of the subjects. No such course, however, was adopted by the promoters of the present measure. The bill was brought in without waiting one moment for intelligence: nor was it the mere bill before them that was brought forward. Two others were got up with equal haste and inconsiderateness, some of the provisions of which might go perhaps to alleviate the evils belonging to the main measure, but of which others seemed no less likely to increase them. It was not one measure of change that was

proposed, but three. This course might answer the purpose of some advocates of the Catholics; it might serve, as it was meant to do, to catch a few stray votes on the right or the left; but in what sort of situation was the House of Lords placed by such proceeding? He desired to know what it was expected that the House of Lords should do. The House of Commons put them in this condition—it sent them up a bill which they knew not how to act by; having purchased a majority for that bill below, by the introduction of other measures. He had never before met with so disgraceful a proceeding in the course of his parliamentary life. At least, they ought to know what it was they had to decide upon—whether it was the single measure submitted to them, or that measure as connected with two others? For himself, perhaps, this question was one of slight consideration; for he detested, from the very bottom of his heart, the bill already before the house. A great part of it he took to be nonsense; some of it was even rather worse. The least objectionable part of the bill was the proposed concession to the Catholics; for upon that subject he would be content to put one short question to the house—would they grant it or not? If they replied in the affirmative, he would engage to draw a bill for the purpose in half an hour, which should not be liable to a tenth part of the objections which applied to that now upon the table. But would the house, or would it not, remove the Catholic disabilities? That question, perhaps one of the most important that parliament had ever undertaken to decide, could not too soon be treated in such a manner as to place it on a firm and solid basis. The noble lords opposite maintained, that it was right to grant concessions; because the Catholics were entitled to equal civil rights and immunities with their Protestant brethren. That was the plain proposition of the advocates for Emancipation; and he would deal plainly with it, for he met it with a decided negative. The Catholics were not entitled to equal rights in a Protestant country. Upon some points he had been favourable to the Catholics; he did not know but there were others upon which he might still be so; but upon the broad principle—that they were entitled to equal rights—he and their friends were at issue. He admitted—no man could dream of denying it—that all subjects in a free state were entitled to equal rights, upon equal conditions; but then the Catholics, who demanded equal rights with their Protestant fellow-subjects, did not afford equal conditions. The difference was stated in a moment—the Protestant gave an entire allegiance to his Sovereign; the Catholic a divided one. The service of the first was complete; that of the last only qualified; and unless it could be proved that a half was equal to the whole, he could not yield to the Catholic claims. Thus, therefore, he took his stand upon the broad principle of justice: he was content to argue the question, at present, as one of expediency; but he maintained that his opposition to the spirit of it was founded in principles of justice and common sense. It was said, that the practical effect of Catholicism should be looked at; and that the actual operation of that faith was very different from what some of its tenets seemed to point to in theory. Practically it was, that he wished to examine the question; and in no other way. He desired to say no-

thing about theological dogmas—to seek for no obsolete opinion: the doctrines upon which he would rely should be those laid down in evidence before the house. First, then, it was admitted unequivocally, both by Dr. Doyle and Dr. Murray, that the Pope had the supreme power of naming to the vacant dioceses. It was true, the Pope had been in the habit of attending, in his appointment, to the recommendation of the church of Ireland; but this was matter of mere courtesy or hazard; the power was distinctly in himself; and if he thought fit to appoint a foreigner—say, the foreigner of all Europe most obnoxious to the government or the country—that foreigner would be, and must continue, a Catholic bishop of Ireland. This fact had come out beyond dispute. During the lives of several of the later Princes of the Stuart family, the Pope had been in the habit of appointing Irish Roman Catholic bishops at their nomination. He might now appoint, in the same way, upon the nomination of France or Spain; and the individual so constituted would proceed to exercise influence, and most extensive temporal influence, within the British territories. The question was not, let the house recollect, as to the danger, or the degree of danger, which might attend the concession of these claims: the question was, whether it was fit that equal rights should be enjoyed by Catholics and Protestants? Immediate danger be apprehended none; but it was not always in the brightest or the calmest weather that the storm was farthest distant. When could the Established Church appear more secure than it had seemed at the restoration of Charles II.? Yet, within twenty years, it was threatened with total destruction by the machinations of a Popish prince. Seeing where the appointment of the heads of the Roman Catholic church lay in Ireland, it was impossible not to advert to the power—the temporal, the practical power, exercised throughout that country by the priesthood. The system of confession—the right of demanding it, for the act was not left to the will of the individual confessing—rendered the clergy masters of all the secrets of the community. The priest, receiving confession, was bound to secrecy not only as to crimes committed, but he was equally bound to secrecy as to crimes intended to be committed. Thus a Catholic clergyman, discovering, in confession, that there was a conspiracy on foot to blow up both houses of parliament, would not be justified in making known the fact. To take a simpler instance, if a man came to a place at which there were two roads, and a priest knew that if he took the right hand he would be murdered, and that by the left he might be saved—he would be guilty of a dereliction of duty if he gave that man a hint which might preserve his life. Differences such as these must of necessity prevent the Catholic and the Protestant from amalgamating. With respect to education, there was scarcely any possible mode by which Catholics and Protestants could unite in one system. There was none of this difficulty with other Dissenters; for, whatever were their shades of difference, they had the same foundation to build upon. In the same way it was allowed by Dr. Murray that marriages between Catholics and Protestants were altogether disallowed; that they were not permitted at all, except upon an undertaking that the children should be all brought up in the Ca-

tholic faith. Then, if there could neither be intermarriage, education in common, or any other description of domestic bond between the Protestants and the Catholics, how was it possible that kind feelings between the followers of the two persuasions could exist? The fault was not the fault of the Established Church; it was in the bigotry and intolerant spirit of the Roman Catholic religion. As a proof of the intolerance of that church, he would allude to the sentence of excommunication. To give a crust of bread, or a cup of cold water, to the proscribed party, though he were perishing for want, was a punishable crime. Many, no doubt, there were, among the Catholic priesthood, most virtuous and deserving men; but among so large a body there could not fail to be some of a very different character; and yet these men generally, it was stated in the evidence before the house, had more authority over the peasantry than their landlords. Now what guaranty could be given in such a case for Protestant security? He held—their lordships held—all the bills held, that a Protestant succession was the foundation of our constitutional system. If these measures should pass, the Protestant succession would not be worth a farthing. Much had been said of rights—indeffensible and natural rights. Now, speaking of a King's rights in the same sense, and no other, as that in which he would argue for the rights of a peasant, would it not be hard upon the King and the heir to the throne that they must be bound to the Protestant faith, while the chief-justice, the ministers and secretaries of state, might be Roman Catholics? Why was this? Where was the danger in having a Popish king or a Popish chancellor, if all the other executive officers might acknowledge the Pope? He thought there was less danger in a Popish chancellor, who might be removed at pleasure, than in a Popish chief-justice, who would hold the administration of the criminal law in his control, and could only be removed by a peculiar process of law in case of his dereliction. The house ought at once to meet this bill fully and unequivocally, and not to deceive the people; they ought at once to declare, that if the bill were to pass, Great Britain would be no longer a Protestant state. The first evil he should apprehend from its passing would not be immediate; but it would be infallible, and would come upon the country a manner little expected. It was not the immediate object of the Catholics to possess themselves of the property of the Established Church; they were too wary to proceed openly and directly in any such design. No, their object was, in the first instance, merely to diminish the property of the church. What was the language held by one of their authorities upon that very point?—That he did wish to decrease the magnitude of the possession of the church; but he wished it, not as a priest, but as an Irishman. Was any man so blind, or deaf—was any man so lost to all the benefits of experience, as not to know what such language really meant? The most insidious way in which the Catholics could possibly set about their work was to say, "Take the property of the Established Church, and give it to the public for the general benefit of the country." When once the property of the Protestant hierarchy was invaded by such an artful attack, it required but little wisdom to foretel what would befall the remainder of its rights. The grand maxim of the Catholics

was, that if one church sank, the other must swim; destroy the Protestant Establishment, and the Catholic would flourish. There was nothing inconsistent in the evidence before the house, that they had no design or desire of attacking the Protestant Church; for the Catholics thought, that if they could destroy it by what they called legislative means, it was no destruction in the sense of their professions. To destroy that church was, however, their grand object; it was their oath, their every thing. Noble lords appeared to think, that by education, and by removing the impositions which were laid on the Catholics as to marriages, and as to government patronage, all dissensions between the two churches would cease; but the question was, whether the effect of this bill would not be to increase those dissensions (hear, hear)? The bill would leave the two parties where they were, except that by giving new powers to the Roman Catholics, it would be bringing them upon an equality, and thereby increase the discord. If it were possible to unite the Catholics and Protestants in one friendly mass, by any common system of education, he should applaud the effort to obtain so desirable a result; but separated as they were, and actuated by the spirit by which it was well known that so many on both sides were actuated, such a project was absolutely impossible. The very hope was visionary; and those who had the object at heart, and had introduced the present measure as a means, would find themselves egregiously deceived, if they were to carry the present measure. What was then the good which could result from this bill? Would it tranquillize, or tend to tranquillize Ireland? Great mistakes had arisen from the belief, that because Ireland had been in a very disturbed state, and because very objectionable measures had been resorted to for keeping that country in peace, that therefore all the disturbances had grown out of the Catholic disqualifications. But it was a proposition proved to the certainty of abstract demonstration, that the disturbed state of Ireland for the last twenty years, had had nothing whatever to do with the Catholic question. For twenty-five years the Insurrection Act had never been put in force in the province of Ulster, and yet that province was the great seat of religious animosities and violence, because the two parties were so nearly upon an equality. It had, on the contrary, been put in force in the south, where no religious dissensions whatever had existed, or at least, to the extent of disturbing the public peace. Absentees, combined with the minute subdivision of property, had occasioned an increase of population, to a most enormous extent; this had brought the country into a state of beggary, and from hence had sprung all the disorders of the state. This great evil, he was happy to say, was now curing itself. Dr. Doyle stated in his letters, that the population of Ireland was now positively decreasing. He perfectly agreed with the *rt. rev. prelate* (of Chester), that, whether the Catholics amounted to one, two, or three millions, made no difference, and ought to make no difference in the decision of this question. It was a great question that ought to be decided upon general principles, and extended views. But with respect to the number of Catholic subjects, the greatest exaggeration had been resorted to. A noble lord had stated that the Catholics of Ireland outnumbered the Protestants in the proportion

of at least five to one; it was unquestionable, from accounts which could not be incorrect, that the proportion was not even three to one. With reference to the recent augmentation of the Catholics, it was equally well proved that the Catholics now bore the same proportion to the Protestants as they did in the time of Sir W. Petty. Their lordships had heard upon all occasions when this question was debated, that the Protestant subjects of foreign states enjoyed many advantages which were not enjoyed by the Catholic subjects of the English crown. He begged the house to consider that there were circumstances in the English constitution, growing out of the advantages of that constitution, which might make restrictions upon the Catholics more necessary than in absolute monarchies. But persons spoke as if the Irish Catholics were really deprived of all participation in the advantages of the constitution. He did not wish to undervalue what the present bill would give them; but without it, they still possessed more rights and privileges than any people of Europe, without any exception. He certainly could not carry his argument to America, where a man might pay any priest he liked, or no priest at all. Whatever might be the freedom of the polity of the United States, theirs was not the British constitution, nor was it the constitution which he wished Great Britain to possess. There was, therefore, no parity of argument between the two countries. The mass of the property in Ireland belonged to Protestants, whilst the mass of the population was Catholic. When concessions had hitherto been made to the Catholics, the cry had been that the house was granting a great boon to the people; but the present bill would have the directly contrary effect, for its object was to benefit only about forty or fifty individuals, who aspired to places of public trust, whilst it took away the civil rights of many thousands. The vote of the House of Commons, on the 29th April last, declared, "that it was expedient that provision should be made by law for the maintenance of the secular clergy of the Catholic religion in Ireland." This provision, in his opinion, was to all intents and purposes establishing by law the Roman Catholic hierarchy in its full pride and power. This was going at once to the very object of Catholic triumph; and those who had been the most alarmed, and had thought that such a state of things would grow out of the present bill, had never thought that it would have been done so openly. Was such a measure constitutional? Was it consistent with the rights and privileges of Protestants? It had been speciously argued, that the Catholic claims could not militate against the coronation oath: but that oath was created solely for religious purposes, and it was only by inferences that such an opinion could arise, for that oath was most positively to maintain the Church of England in all its rights and property. The Catholic church of Ireland was not like the Catholic church of England. The Catholic church of Ireland was an ancient church, with a jurisdiction, with bishops, priests, parishes and every other appearance of a regularly established church. He had a letter in his pocket, to prove that in Ireland the Catholic bishops would not even address the Protestant bishops by their legal titles, and in the Catholic almanacks, all that related to the Catholic church was printed in large letters, whilst what referred to the Established Church was printed in a small type.

The Catholic church showed a complete parity of jurisdiction with the Establishment. The house could not, therefore, conceive it possible to favour such a church with safety to the Church of England. He had argued the point upon a narrow principle, in order to convince the house that the present bill was totally incompatible with the first principles of the constitution. He could not bring himself to view it as a measure of peace and conciliation. Whatever it might do in this respect in the first instance, he was persuaded that its natural tendency would be to increase dissensions and to create discord, even where discord did not previously exist. He intreated their lordships to consider the aspect of the times in which they lived. It was their fate to hear doctrines openly promulgated, which were as novel as they were mischievous. The people were now taught in publications to consider Queen Mary as having been a wise and prudent Queen, and that the world had gained nothing whatever by the Reformation. Nay, more; it was promulgated that James the Second was a wise and virtuous Prince; that he fell in the glorious cause of religious toleration; and that three months before he abdicated the throne, he had put forth a most solemn declaration, that he never meant to injure, much less to subvert the Established Church, and this was published to the people of this country by grave Catholic divines. Could the house be aware of these facts, and not see that a great and powerful engine was set at work to effect the object of re-establishing the Catholic religion throughout these kingdoms—and if once established, should we not revert to a state of ignorance, with all its barbarous and direful consequences? Let the house consider what had been the result of that fundamental principle of the constitution which they were now called upon to alter with such an unsparing hand. For the last one hundred and thirty years, the country had enjoyed a state of religious peace, a blessing that had arisen from the wisdom of our laws. But what had been the fate of the country for the one hundred and thirty years preceding that period? England had been in a state of the most sanguinary religious contentions. The blessings of the latter period were to be attributed solely to the nature of those laws which had granted an equal toleration to all religions, while, at the same time, they maintained a just, reasonable, and moderate authority in favour of the Established Church. He could not view the present measure without the deepest apprehension, and he trusted that their lordships would not make any such desperate experiments upon the constitution, and upon a system under which the country had enjoyed such innumerable advantages (loud cheering).

The Earl of Harrowby rose to reply to the arguments of his noble friend (Lord Liverpool) not because they had made any impression upon his mind, but because they might possibly have had some effect upon the minds of others. He had disclaimed all intention of arguing the question upon a religious basis, and had considered it as a question involving the allegiance of the Catholic subjects. If those arguments were worth any thing, they went too far, for they would prove that every Catholic would hold but a divided allegiance between his Church and his Prince, and the whole history of the Catholic church would prove, that for centuries the Catholics had never acted upon

any such principles. But granting these assertions and arguments, they amounted only to this, that the Catholics possessed a principle which the Pope might call into use against any civil government. If this were the fact, he need only ask what instances had occurred in modern history of the Pope having been able to avail himself of any such power? He would not go back to all the ancient creeds, and declarations of councils, on which so much had been said on former occasions. It had been said that the doctrines professed in those creeds, and promulgated by those councils, had not been distinctly disclaimed. Was it nothing that many of the most obnoxious of the doctrines in question had been disclaimed by high Catholic authority? Was the declaration of the Council in France in 1682, with Bossuet at its head, nothing? Was it nothing, that when the questions respecting those doctrines were put to all the great Universities of Europe thirty years ago, they expressed their surprise at the circumstance, and their indignation at the imputation involved in the supposition that they could really believe such doctrines? Was it nothing, that in the face of the public the principal leaders of the Roman Catholic church had abhorrently disclaimed such tenets? His noble friend had stated various grounds to shew, that Roman Catholics could not be good subjects of this, a Protestant state; but it might be shewn on the same grounds, that they could not be good subjects of any state. Among those was the doctrine of confession. He allowed that it was a monstrous doctrine. But in what way did it affect the security of the state? His noble friend ascribed the danger to the secrecy imposed upon the priest. But this secrecy, although it might render the priest guilty of misprision of treason, could make no change in the character of the subjects. The laity now confessed to their priests, because their priests were not at liberty to reveal the confession. If the priests were at liberty to reveal the confession, the laity would no longer confess; but would that make any difference in the existence of treason, or any other crime? Detestable, therefore, as the practice of secret confession undoubtedly was, its abolition would afford no security for the better discharge of the duties of good and faithful subjects by the people. He disapproved as much as his noble friend did of the Catholic doctrine of the non-circulation of the bible. But it should be remembered that that was the doctrine of a part of our own Church. An erroneous doctrine to him it certainly appeared to be; but was it to be held, that because the Catholics maintained such a doctrine, it was not fitting that they should enjoy equal civil rights with their Protestant fellow-subjects, many of whom maintained the same? It was the same with respect to the peculiar doctrines of the Catholics as to marriage, and the other sacraments of the Catholic church. He was quite at a loss to understand what there was in those doctrines so menacing to the safety of the country as to warrant the house in denying those by whom they were professed a participation in the civil privileges enjoyed by their countrymen. And besides, who was it that attached most importance to such doctrines? The peasantry. Who were most under the influence of the priesthood, by whom these doctrines were preached? The peasantry. To the peasantry concessions had been granted. On the contrary, on whom were these doctrines least operative? On the very description of persons

whose civil disabilities the bill under consideration was intended to remove. If, therefore, the argument were worth any thing, the legislature had gone too far already; and what was worse, they had begun at the wrong end. To him it seemed that the relief now proposed might be much more safely afforded to men of enlarged minds, than the concessions which were formerly yielded to the description of individuals for whose benefit they were intended. With regard to the influence of the Pope, it was undoubtedly true that the Pope had greater influence in the nomination of bishops in Ireland than in their nomination in any other country in Europe. But did not the Pope exert that influence at present? If dangerous, was it not dangerous at present? If dangerous, would not that danger be counteracted by the concessions now proposed? It was an evil which in some respects the legislature could not diminish. They could not loosen the bonds of spiritual allegiance to the Pope. What then could they do? They might draw more closely the links of political attachment to the state (hear, hear). The true way of dealing with the supposed danger was to strengthen those ties which bind man to man, and the citizen to the government of his country (hear, hear). That what had been done already or might be hereafter done would act as a panacea for the evils of Ireland, he would by no means say. But he was quite prepared to say, that without the proposed measure Ireland would not be tranquillized. As to the fears from the introduction of Roman Catholics into Parliament, they appeared to him to be utterly nugatory. Nor could it be apprehended that a ministry would ever attempt to maintain itself by an alliance with the Catholic interest in Parliament; it was certain that any ministry endeavouring to sustain its tottering power by such means, would insure its speedy fall. With regard to the Established Church, it was unnecessary for him to make any profession of his attachment to it. If he felt that any danger was likely to result to the church from the proposed measure, he would encounter all the inconveniences which were to be apprehended from its rejection. But whence was this danger to proceed? From the exertions of physical force? That physical force was now in existence. From the bulls of the Pope putting that force into action? That the Pope might do now. Was the danger to proceed from legislative measures? There would be six or eight Catholic peers in that house. In the other House of Parliament, he understood from some quarters, that there might be three—from others, that there might be sixteen, but he would suppose that there might be fifty Catholic members. What could they effect? From all their efforts, he was persuaded that the Church would rest perfectly secure. The apprehensions, with respect to it, all related to a remote, contingent danger. To attack the Church in Ireland, would be to attack the Church in England. To attack the Church in both countries, was to attack the land-owners; and such an enterprise could never hope to be attended with the slightest chance of success. But suppose that any alleged alarm should prove well-founded; suppose that any real dangers to the Church should show themselves. A reference to the circumstances under which our ancestors had provided against those dangers, would show the facility with which they

might be averted. Let their lordships recollect the circumstances of the latter end of the reign of Charles II. A concealed papist on the throne; a declared papist next heir; Louis XIV. suspected of that of which it was now known he actually was guilty, bribing the King of England to forward his views. Yet, under all these circumstances, our ancestors effectually guarded the Protestant Church from the dangers with which it was menaced; and why might not we or our posterity be equally able to guard it from similar dangers, should they present themselves? It had been said, that the leaders of the Catholics had created a disturbance in Ireland. The term "creation," implied the production of something new. Was disturbance new in Ireland? There it was; there it had been for centuries; and there, owing to the anomalous circumstances in which that country was placed, he feared it would long continue. As circumstances existed at present, it was the interest, or appeared to be the interest, of the leading minds of Ireland, to continue the existence of a state of discontent and disturbance. If to the higher classes of Catholics the door to the fair objects of ambition were opened, what temptation would they then have to keep up the agitation of the country? Was it probable that, having no wish unsatisfied, except the substitution of Roman Catholic bishops for the Protestant ones, they would, on that account, wage desperate war against the whole strength of the country? Such a thing was not to be believed. If it were to occur, the strength of the Protestant empire would be sufficient to beat it down. But, could any man say what would be the result of the disappointment of the Catholic hopes in the present instance; what venom that "hope deferred which maketh the heart sick," might infuse into the Catholic mind? Could any man say, what might be the result, if we were engaged in a foreign war, and with a country which would possess both the means and the inclination of attempting to seduce the loyalty of Ireland? It was the astonishment of all Europe that we did not seem to think it worth our while to guard against the possibility of dangers so extensive; and thereby to deprive our enemies of extensive means of annoyance. The decision of their lordships that night, if it should unfortunately be that which he feared he must anticipate, would be hailed with triumph by the rival powers of this country, who would see it in the seeds of our future weakness (hear, hear).

The Lord Chancellor said, he would not enter into the merits of the Catholic question, but would merely state his reasons for not agreeing to the measure now before their lordships. He did not understand how it happened that this bill came before that house in its present shape and form. He saw, from the votes of the other house, that it was connected with a bill which went to disfranchise a great number of the freeholders of Ireland, and he also observed from the same votes, that it was deemed expedient that the Government should pay the salaries of the Catholic clergy of that country. No person conversant with parliamentary practice could view these measures without perceiving that they were nearly connected with the present bill; and yet they were asked to decide on that bill without knowing what was to become of the two measures which were introduced with it. This, he must say, was not

a proper mode of legislating; and if he had no other reason for opposing the bill before their lordships but the circumstance to which he had adverted, he would make his stand on that ground. From the period of the Union with Ireland, he never heard of this question being brought forward, without mention being made of ample security for the Protestant Church and Protestant Establishment. It had been his duty, from many circumstances, not to separate himself from the minister who conducted the affairs of Government at the period of the Union, on account of certain differences of opinion. That minister was favourable to the Catholic claims, and he had often asked him what were those securities which he intended to propose, and without which he had declared he would not agree to the measure of Emancipation? But, notwithstanding all his inquiries, he never could find what those securities were. Although there was a degree of ingenuity displayed in the manner in which this bill was drawn up, which he had hardly ever seen before in the composition of an act of Parliament, there was no variation in the preamble from former bills. That preamble contained—first, a solemn acknowledgment that the Protestant Establishment of this realm in church and state must be inviolably and permanently secured: then came an allegation that they were so secured. He allowed that they were secure, provided the acts which rendered them so were permitted to continue in force; but if their lordships took away the substance of those acts, where was the inviolability of their security? He then alluded to the provisions in the bill for regulating the intercourse with the see of Rome, and said that the title “pack of nonsense,” by which his noble friend had described it, was full as respectable a one as it deserved. What security against the influence of Rome, was afforded by three commissioners, who themselves refused to acknowledge an undivided allegiance to the sovereign? He (the learned lord) had taken a positive oath, by which he bound himself to deny the spiritual or temporal jurisdiction of any foreign prince, potentate, or prelate within these realms, which, so help him God, he would not violate. It was true that some-where an interpretation had, he understood, been put on that spiritual jurisdiction by two eminent lawyers, one English, the other Irish, which he undoubtedly did not understand. As a privy counsellor he had also taken an oath to defend and maintain entire and inviolate the supremacy and prerogative of his sovereign. He had also taken the oath of allegiance. He knew that it might be said his mind was fettered by the trammels of a lawyer, but he had the authority of Lord Hale, to state that the oath of allegiance was erected to dissipate the different constructions that were put on the oath of abjuration, which, though not created, was restored by that enactment. Under the sense of these obligations, he should oppose any measure which derogated from the supremacy of his sovereign. It was out of his mind to understand what a jurisdiction merely spiritual meant. If, by a spiritual jurisdiction, the marriage of a Protestant with a Catholic was set aside, though the courts of civil law of this country compelled the parties to continue in wedlock, he would ask was that a spiritual or temporal jurisdiction (hear, hear)? The discussion of the present measure required a

much larger field than its advocates gave it. It must be considered in connexion with the disfranchisement of the freeholders, and the provision for the Catholic clergy of Ireland. They could not refuse to English Catholics what they granted to the Irish: and then they would be bound to put the other Dissenters in this country, on an equal footing with the Catholics; so that ultimately all the bulwarks and fences which their ancestors had provided for the safety of the Protestant Church would turn out to be wholly useless. As to the measure for giving salaries and stipends to the priests of the Roman Catholic church, if they granted them in Ireland, they could not refuse to support a similar hierarchy in England. If they gave this stipend to the Catholic hierarchy, it would be impossible to refuse a *seguim denum* to the clergy of the Dissenters. They had heard much of the constitution of the States of America. He trusted that the experiment that had been made in that country of a government without a religious establishment, might, for the peace of its people, succeed; but it was not because such an experiment was on trial, that he would agree to surrender the rights and security of that church establishment in this country, which had contributed so essentially to its glory, prosperity and happiness (hear, hear). With respect to the other measure which it appeared was to accompany the accomplishment of the present bill, he meant the disfranchisement of the forty shilling freeholders comprising thousands of his majesty's subjects—if it were true that that measure was brought forward with a view to catch the votes for another bill, which went to obtain an extension of civil rights for a few, it did in that light appear to him most objectionable. Some noble lords might term him a reformer. As for the bill for the disfranchisement of Irish freeholders, if it had any connexion with the present measure, the house ought to have it before them. If what a noble friend of his had stated was correct, it certainly went a great way to diminish his respect for the bill which had come from the House of Commons. They were not justified in taking away the civil rights of persons, which had been conceded to them upon the supposition that they were competent to exercise them. He had lived too long to attach much respect to the character of a Reformer; a term which united revolutionists and republicans with some of the best persons in the kingdom. He then insisted that the sentiments of an infinite majority of the people of this country were unfavourable to the bill. He should be sorry to say that the House of Commons did not represent the sense of the people; but he well recollected when the East India bill passed the House of Commons, against which numerous petitions had been presented, it was then, as it was now, contended that the people approved of the measure. Then, however, unluckily for that assertion, there came a general election. The House of Commons, after that election, was differently constituted; and the result proved, that what was alleged to be the decision of the people of this country turned out to be a delusion. He felt that, in the few observations he had made, he had not, at that advanced hour of the morning, expressed himself as clearly as he wished, but he should conclude with assuring their lordships, that after twenty-five years' deep consideration of the

subject, he could not, consistently with his sense of duty, and the station which he held under the crown, support the present bill (hear, hear).

The house then divided, when the numbers were,

Content—Present, 84—Proxies, 46—Total, 130.

Not-Content—Present, 113—Proxies, 65—Total 178.

Majority against the bill, 46.

COMMONS, THURSDAY, MAY 26.—Mr. *Spring Rice* rose to move an address to his Majesty, praying that he would direct copies of all despatches received from the Lord Lieutenant of Ireland, respecting the origin, nature and extent of the religious animosities in that country, to be laid on the table of the house. He said that in doing so he should carefully abstain from any topics that were calculated to irritate and inflame. He must, however, advert to the proceedings of that house during the present session, in order to show that he had parliamentary ground for his motion. If he had made his present motion at the beginning of the session, it might have been unwise in the house to have acceded to it. At that time they all expected that Ireland would form the prominent subject of their deliberations. The subject had been recommended to their consideration by the Speech from the Throne and had been brought under their notice by the inquiries which had been subsequently conducted elsewhere. But the case was now entirely altered. The close of the session was now at hand; and after all the parade of professions which had been made towards Ireland, what measure had really been enacted to promote her welfare, or redress her grievances? An act to extinguish an association, which comprised within it all ranks and classes of Catholics, was the only act which the legislature had bestowed upon Ireland. After they had thus legislated against the whole mass of Catholics, what had been the conduct of that body? They had submitted in silence to the measure; they had done more—they had given to the law a wider construction than its letter seemed to import. They had ceased entirely to assemble as a deliberative body. He mentioned that circumstance to show that the Catholics deserved well of the house; but he should be acting unfairly, if he concealed the fact that their acquiescence in the law was derived from a very different source than their satisfaction with the law itself. They were full of hope that in consequence of the inquiries which were going on, the truth would be elicited as to their views and principles; and they thought that if that object were accomplished, justice would apply to their grievances the necessary remedy. After those inquiries had proceeded for some time, the Catholics received from that house the reward of their good conduct; their cause gained ground not only in that house, but in all the enlightened classes of the country. The bill, which had occupied so much of their attention during the present session, was carried to a second reading with increased majorities. That occurrence kept the hopes of the Catholics alive that their condition would be bettered before the end of the session; and those hopes were not diminished by the conduct of those who opposed them in the House of Commons; for a conciliatory tone had been

adopted by the opponents of Emancipation in that house, which made those who sought it regret that such talent had been arrayed against them—which rendered the defeat of the Catholics less dangerous in Ireland, and even made refusal graceful and dignified (hear, hear). The bill proceeded to a third reading, and was finally passed. What happened next? That bill, which had been twice passed in the House of Commons—which had been twice placed by his rt. hon. friend near him (Sir John Newport) in the hands of the Lord Chancellor, which went up to the Lords supported by a great mass of the Protestant feeling in Ireland, was unceremoniously rejected on its second reading by the other House of Parliament. He would not comment improperly on the conduct of that branch of the legislature. If he were to state that the conduct of the House of Lords had placed the House of Commons in a disgraceful situation, he knew that the Speaker would tell him that his language was too strong. If he were to say that the proceedings of the other house were foolish, that they were mere nonsense and trash, he knew that the Speaker would tell him that his language was not such as a member of one house of Parliament ought to use of another (hear, hear). It would therefore be sufficient for him to say, that the two Houses of Parliament were at issue with each other upon a question which involved no less a subject than the happiness of Ireland and the stability of England. That being the case, should the House of Commons pause where it was? Should it abandon its efforts in behalf of Catholic Emancipation; or fortify the case it had already made out with such evidence, and place it in so unquestionable a light as would render it acceptable even to the House of Lords? He thought they should take the latter course, and prove by evidence and authority that they were right in the view which they had taken of this great question, and that the House of Lords was wrong. This was not like a difference of opinion on a Silk bill; it was not like a question whether satins or ribbons should be manufactured in Spitalfields or in Yorkshire. It was a question of vital importance, on which the two houses ought to come to some conclusion. He did not know how this could be better effected than by the evidence and authority of the individual who had been sent over as the King's representative to administer the affairs of Ireland. He thought that Lord Wellesley as an eye-witness was better qualified than any other man to give an account of the civil animosities of Ireland, with their consequences. He thought, too, that the opinion of Lord Wellesley would have great weight with the parties with whom he had to deal; with the Cabinet which had appointed him, and with the House of Parliament to which he had so long been an ornament (hear, hear). It was not sufficient to tell him that Lord Wellesley had frequently stated his opinions on the condition of Ireland in the House of Peers, and that there could, therefore, be nothing new in his despatches. That was not the fact. The opinions which Lord Wellesley had expressed in the House of Peers were the opinions of an individual peer who had been long resident in India, and removed from all association with Ireland. He wanted the opinions of Lord Wellesley, the King's deputy in Ireland—he wanted his opinion of that country after he had governed it for four years under



circumstances of greater difficulty than any which had ever fallen to the lot of former governors, and after he had by his government conferred upon it greater good than all of them put together. But it might be said, that he had no right to assume the existence of such despatches as those for which he had moved. He contended that every probability was in favour of their existence; and he put it to the house, that in such despatches a distinct opinion must have been given one way or the other, as to the necessity of Catholic Emancipation. It was impossible to touch upon any Irish question, without meeting the Catholic question (hear, hear). How then was it possible for Lord Wellesley, who from his situation was bound to give an account to the Cabinet of the distresses of Ireland, their causes and their remedies, to have written a single despatch without giving an opinion upon this question? It was that opinion he wanted. He wanted it to show that the recent majorities of the House of Commons had been right in passing the Catholic bill; and he therefore called upon the individuals who had formed those majorities to support his motion, in vindication of their own conduct. But, supposing that there were no such despatches, then he said that Lord Wellesley should be examined before the House of Lords. A crisis had arrived, which required the appearance of that illustrious nobleman upon the scene. If he had followed the course most congenial to his own mind, he should have pressed such a motion upon the house: but he was told that if he did press it, he would be met by a declaration that the presence of Lord Wellesley could not be spared from Ireland. When he considered the consequences of the rejection of the late bill, he had not alone to deplore hopes deferred, but principles avowed, which, when taken in their full and legitimate extent, amounted to a denunciation of all concession to Ireland, and which, pushed to their legitimate conclusions, would warrant, not the repeal of the present penal laws, but the re-enactment of the old in all their violent operation (hear, hear). If these principles were tenable, it was unwise to put off that re-enactment: if Catholics were necessarily bad subjects, and capable of holding a divided allegiance, Parliament had already gone too far in confiding in their pledges, and had trusted them too much. This was the legitimate conclusion from the principles of some members of administration. He deplored that result, and it was to calm and sooth the prevailing irritation which such a course was calculated to provoke in Ireland, that he brought forward this motion. He did not mean to say that Catholic disappointment must necessarily be attended with disturbances in Ireland, for it was the duty of every good subject to prevent disorder, and he hoped that feeling would influence the friends of concession on the present occasion: but of one thing he was quite sure—that so long as a heavy grievance were permitted to remain unredressed, so long must there exist a liability to disturbance, and a discontent of which every advantage might be taken by the enemies of good government. The hon. bart. (Sir T. Lethbridge) had admitted, that notwithstanding the rejection of their claims, he was persuaded the Catholics would still behave with loyalty and affection. If this were his persuasion, why refuse them that confidence which they required and deserved? But he

feared that the Catholics would confide as little in the praises bestowed upon them by the hon. bart. and those who opposed their claims, as that hon. bart. and his agricultural friends did in the high tribute paid by the late Lord Londonderry to their patience and forbearance, when the hon. bart. and Mr. Webbe Hall were described as the O'Connell and O'Gorman of the agricultural complainants. The Catholics would, he feared, when praise was offered from such a quarter, remember the language of the poet—"You spat on me last Wednesday; you scorned me on such a day; another day you called me dog; and for all these courtesies you give me praise and deny me justice." If the Catholics, however, rejected the advice of their enemies, he hoped they would take the recommendation of their friends. As one of the latter, there were two principles which he would particularly urge for their adoption. One was, to preserve union among their own body, under all vicissitudes, from Giant's Causeway to Cape Clear, if they hoped either to meet or to deserve success. The next was, to obtain by all means in their power, the Protestant co-operation, which was already so generally held out to them. The time would inevitably come, when Ireland would be so unanimous in her demands for justice, that neither that, nor the other house of Parliament, at the instigation of any Government, could persevere in refusing concession. The Irish members were two to one in favour of the question, and the Peers of Ireland were divided with equal strength in the same cause. The necessary effect of exclusion, against this evidence, was to bring the people of Ireland to curse the British constitution, and detest that Union, which under more fortunate circumstances would be productive of so much good to both. It was under such circumstances that he was anxious to have the despatches of Lord Wellesley laid before them—to calm the agitated feeling of Ireland; and to enlighten the public mind of England upon a subject in which his opinion as chief governor must necessarily have great weight (hear, hear). When he alluded to the feeling of the people of England, which was in advance upon this question, he deprecated the base arts which were used to diminish it. The same wretched device of chalking "No Popery" upon the public walls, had been used, they would recollect, when "No King" was scrawled in the same manner. Having mentioned this fact, he would relate another, which he was sure was not promoted by the respectable opponents of the Catholics. One Benbow, an obscure publisher of seditious pamphlets at former trials of notoriety, was at present engaged in disseminating a speech, purporting to have been delivered by an illustrious personage elsewhere, to which comments were subjoined which were sufficiently objectionable in this country, but which, when circulated in Ireland, were calculated to excite extreme irritation and discontent. He knew positively that a person in office, who was a member of the House of Peers, had taken care to disseminate this document all over Ireland. He could not help, when he considered the nature of the opposition to this question, reflecting upon a similar alarm which had been sounded in the people's ears in former periods. In 1720 considerable alarm existed in this country respecting danger from the plague, then raging at Marseilles, and

Government undertook remedial and precautionary measures; but Lord Hardwicke recorded, that such was the delusion which had been practised upon a large portion of the people by the steps taken to prevent the dissemination of contagion among them, that they denounced what they called "barrack hospitals," and declared they would have "no red-coated nurses" (a laugh). In 1753 a bill was brought in for the naturalization of Jews—a measure against which not even the voice of an old woman could now be raised in the country, although in its day it encountered a fierce attack, and drew forth petitions from London and other places, as was the case with the late Catholic bill. The London petition set forth that, "Should the said Jews' bill pass into a law, it would greatly endanger the Christian religion, would undermine our happy constitution in church and state (a laugh), and would be highly prejudicial to the interests of trade in general, and of the city of London in particular" (laughter). Now notwithstanding this severe denunciation the succeeding Chancellor of the Exchequer did not find the introduction of Jews into the city of London, nor even into Downing-street (a laugh), attended with the disastrous consequences which were then foreboded. The "Craftsman," after denouncing the innumerable disasters which would arise from the measure, proceeded in these words—"I must beg leave to set forth the consequences of this bill. With God there is mercy, but with the Jews there is no mercy, and they have 1700 years of punishment to revenge. If this bill passes we are all Jewish slaves, and without hope of relief from the goodness of God. The monarch would become a creature of the Jews, and the freeholders would be insignificant to him. He would disband our British soldiers, and raise a greater army of Jews, who might force us to abjure our royal family, and to be harmoniously naturalized under a King of the Jews. Awake, therefore, my brother Christians and Protestants. It is not Hannibal at your gates, but the Jews, who are coming for the keys of your church doors" (loud and continued laughter). In the debate which arose in the House of Commons upon the bill, a west-country baronet (a laugh), declared that if they admitted the naturalization of Jews, they would soon be outvoted by them in Parliament. "They will divide our counties," said he, "in lots among their tribes, and sell our lands to the highest bidders" (a laugh). Another member was of opinion, "that the Jews would increase so fast after the bill, as to absorb a considerable part of the land of the country, and compel the people to contend with them for the preservation of their property, as well as the ascendancy of their power." The member for London too, Sir John Bernard, took a more deep theological view of the subject—like that in a late petition from Leicester, which charged the Catholics with being the descendants of those who had burned the petitioners' ancestors—and said "that the Jews were the offspring of those who had crucified their Saviour, and whose descendants to all generations laboured under the divine curse." He referred to these extracts to show, that the old alarm was just as consistent as the new (hear, hear). There was also a mock *Hebrew Journal*, published at the time of the Jew bill, in which was the following advertisement—"Since our last, arrived one mail

from Jerusalem. Last week twenty-five children were publicly circumcised at the Lyng-in-Hospital, Brownlow-street. Last night the bill for naturalizing Christians was thrown out of the Sanhedrim by a very great majority.—The report of the Christians rising in North Wales is entirely without foundation. Last Friday being the anniversary of the Crucifixion, it was observed throughout the kingdom with demonstrations of joy." In this way, and at all times, in the Jew bill as well as the Catholic, the most ridiculous clamour had been excited by disingenuous means. And if they traced the cause of such clamour, they would find it always emanated from similar sources. In tracing the cause of opposition to the Jew bill in 1753, the first authority which he found was that of Lord Chatham, who had stated in his place in Parliament, "that he was convinced, as were most other gentlemen, that religion had nothing to do with this dispute, but he saw that the people had been made to believe it had, and that the old high church persecuting spirit had begun to lay hold of them" (hear, hear). So said he too; it was the old high church love of exclusive power and monopoly that was working against the Catholics, and had been used to delude the people; and he was convinced that many who used such arts knew as well as he did that religion was as little concerned in the late bill, as in that for the regulation of weights and measures or for determining the length of the pendulum by the number of its vibrations. Still, touching on the Jew bill, he found in the Hardwicke papers a letter from Dr. Birch to Mr. Philip Yorke, in which he said, "All this clamour about the Jew bill is merely intended to influence the elections next year" (hear, and a laugh). It happened in those days, as in these, that there was an enlightened Bishop of Norwich who had been an advocate of the Jew bill. Dr. Birch stated, that he was upon his return to his diocese, insulted for his conduct; for "when he went to confirm some boys at Ipswich, they repeatedly derided him, by calling out for circumcision;" and notices were posted up, intimating that "on Saturday next the Bishop will confirm the Jews, and on the following day circumcise the Christians" (a laugh). Thus was the cry against liberal measures in all ages equally senseless and brutal (hear, hear). These apprehensions might be compared to the alarm excited in certain quarters by the late bill. The danger apprehended from conferring more power upon the Catholics was equally absurd; the law could not confer a greater power upon them for inflicting mischief, were they so inclined, than it did at present by continuing the grievance. It was the grievance which made such men as Mr. O'Connell and Mr. Shiel influential. When he named those gentlemen, it was not to distrust them; on the contrary, they were entitled to respect, and deserved well of their country; but he preferred to have power vested in the laws, and not in the hands of individuals, however respectable. The time would come when the resistance of Parliament to concession would be viewed not only with astonishment, but with contempt. The religious wisdom of one age was often the object of contempt to succeeding generations (hear, hear). The opponents of so just a measure as Emancipation could not hope always to move in an atmosphere of their own. Such a notion exclu-

sively belonged to the middle ages, and could not prevail in these more enlightened times. If they persevered in so impolitic a course, they must see the consequence of the union of foreign influence with internal discontent. It was to avert this crisis that he called for Lord Wellesley's despatches. If no opinion had been given from that quarter, such negligence deserved rebuke; if it had, it should be made known, in justice to both countries. On former occasions the noble lord's despatches had been used in Parliament to support legislative proceedings for Ireland. They could not now be refused, consistently with their own votes, or with their duty towards Ireland (hear, hear).

Sir T. Lethbridge rose, not, he said, to discuss the general question, but to disclaim having at any time entertained any idea that the Catholics were disloyal, or indulged in any abuse of that body. But sure he was, that when hon. members alluded to the expression of popular opinion in England as being in favour of the late bill, they deluded themselves; for he was perfectly satisfied that the current of the public mind had set exactly in the opposite way. With respect to any mortification which had arisen, or was likely to arise, from the rejection of the bill, those must answer for it, who had excited hopes, which were so certain of being speedily dashed: Still he was confident that whatever irritation might arise from that circumstance, it would not impair the general loyalty of the Catholics.

Mr. Goulburn would not consent to treat the question of Emancipation as a mere Irish question. He differed from those hon. gentlemen who had found fault with the decision of the legislature upon that view of it. It was a great constitutional question, which went to affect the well-being of the state itself, and of the constitution, as it had existed for 200 years. He was as well aware, as they could be, of the danger of admitting into questions of this nature the warmth of religious prejudices: but it was very certain, that the people dreaded the consequences of passing the Emancipation bill. He could give the public credit for a feeling of pain at the necessity of the exclusion—many of them having only to object to it the apprehensions which they had of any change. The proceedings of that house upon the Jew bill had been referred to. He had no great reverence for any authority which depended upon quotations from long debates of former times. He gave the hon. gent. credit for his selections, but it would not be difficult to find support for any side of an argument in those resources. Still it would be worth while for the house to remark how strong the community were when combined upon any point of religious feeling. This was manifested in the power of public opinion, which compelled Parliament to repeal their own concessions, not only in the affair of the Jew bill, but also in 1780 (hear, hear). He admitted that there might be many objections to the proceedings of 1780; but they ended in retracting the concessions out of deference to public sentiment. He would not detain the house upon the present motion. The production of the Lord Lieutenant's despatches had been complained of heretofore as being the constant prelude to acts of rigour and severity on the part of Government, because they furnished the house with details of those outrages in different parts of the country which had called for those rigorous

measures. How could any details of that nature tend to soothe Ireland? But they were wanted, the hon. gent. said, to convince the other house that they had been wrong in their opposition to the Catholic Relief bill. This was the first time in which despatches had ever been called for in order to convert the House of Peers. Their lordships, however, were not without sufficient information as to the opinions of the Lord Lieutenant. His lordship's vote was recorded, and his opinions, which had been known for many years, had undergone no change. It would be better, if any necessity of this nature existed, to make a motion for the examination of the Lord Lieutenant himself. There were no adequate grounds for the present motion.

Sir John Newport could not treat so lightly as the rt. hon. Secretary had done, the interests and security of six millions of people. It was desirable and essential for the legislature to know the opinions of a Lord Lieutenant, so highly gifted, who had resided in the country for some years, and who had already acknowledged his obligations to the Catholic body for their assistance in tranquillizing the country in times of difficulty and peril. It was the duty of the house to ascertain what measures that noble person held to be most eligible for permanently quieting that country. For his own part, he disliked "things as they were" in Ireland. He was not easy at beholding those hearings of dissatisfaction and disappointment—*Ignis suppositus cineri doloso*—which his hon. friend had described. He deeply deplored the illiberal zeal with which the heat of religious animosities had been fanned almost into a flame. He thought that when the clergy had set the bells ringing at the defeat of the Catholic bill, as if another Waterloo had been fought and conquered, they had done more than any other class to pull down the Church Establishment. The Catholics had a right to complain of the tricks and management which had been resorted to to secure the defeat of the Catholic bill. He adverted, in particular, to the conduct of a noble lord at the head of the Government, who had made use of the opportunity of the committee to put questions to the Catholic clergy. That noble lord should have given them to understand, in the first instance, that which he only made known on the second reading of the bill—that at no time, nor under any circumstances, did he deem it possible to admit the Catholics to the privileges of the constitution. That would have been the conduct of a fair and honourable mind. He complained, too, of the part taken by a right rev. prelate in attributing the opinions of a speech delivered by a Catholic clergyman to the Catholic Board, though it must have been known from the very same sources of information, that a whole day did not pass over before those opinions were disowned, and marked with extreme reprobation by the gentlemen of that Board. He deplored the infatigations in the councils of the Crown which disposed them continually to lead the affairs of Ireland to the verge of peril. "This is true," said Lord Bacon, "that the wisdom of these latter times in Princes' affairs is rather fine deliveries and shiftings of dangers and mischiefs when they are near, than solid and grounded courses to keep them aloof. But this is but to try masteries with fortune. And let men beware how they neglect and suffer matter of trouble to be prepared: for so

man can forbid the spark, nor tell whence it may come" (cheers). He could not predict the time and all the separate circumstances; but he looked upon the first formidable and successful attempt to separate from her a considerable body of her subjects as ringing the death-bell of England. He reminded the house of the inward hatred in which this country was held by the Holy Allies; how jealous they were of her power, her grandeur, her opulence, how much they envied her, and how resolutely they would league, *per fas et nefas*, to deprive her of them, should an opportunity arise. If ministers treated this subject lightly, they were mistaken. Their delusions would lead the country into the utmost peril. He cautioned all future governments against tampering again with those disgraceful prejudices of the popular mind, which had been played on in 1780 and 1807. He thought that the rt. hon. Sec. (Goulburn) went too far in wishing to put his estimate of the value of the opinions of the Lord Lieutenant upon the house. That nobleman was known to have opinions upon the subject of Emancipation differing materially from the rt. hon. Sec. The opinions of the right hon. gent. were well enough known to the house—much better than those of the Marquis Wellesley, whose years, talents, and political experience were likely to have quite as much weight with the house as the declarations of his right hon. Secretary.

Mr. Curteis thought it a happy thing, judging from the communications of his constituents, whom it was his sole wish to please, that the Catholic bill had been thrown out. It would have been treason in him against his constituents, had he voted for the measure.

Mr. Brownlow said, that during two sessions they had been engaged in obtaining all possible information on the affairs of Ireland, from all classes of Irish subjects—from the judges on the bench to the meanest officer of their courts, from the highest dignitaries in the Catholic church to its humblest ministers—from grave ecclesiastics, from general officers, from all who were in the least likely to furnish any thing to the general stock. He thought it, then, neither wise nor courteous to leave out the Lord Lieutenant of Ireland, whose means of obtaining knowledge, whose high station, talents, and influence, were likely to produce more information than could be derived from any other source. The rt. hon. sec. had said that the house knew his lordship's opinions sufficiently, because he had voted by proxy for the bill. The consequence was not so plain as it would thus appear. Many noble lords—the custom almost prevailed among Irish lords—spoke one way and voted another. How could the house be sure, unless they were allowed to judge by their own eyes, that a Lord Lieutenant might not have voted one way, and written another? It was well known that the correspondence of that noble marquis was lying in the office of the Home Secretary. What sympathy could there be between the noble marquis and his rt. hon. friend? Did the Lord Lieutenant partake in any way of the opinions of the rt. hon. gent. who was so far from thinking Emancipation just, that neither then nor at any other time did he think that it could be conceded? This he acknowledged had been his own opinion for some time—just so long as his reason did not forbid it. Why was he so ready, it might be asked, to abandon his former

opinions? Because he had discovered their worthlessness. He had abandoned those opinions in deference to reason and argument, and had taken the course sanctioned by expediency, policy, and justice. He deeply regretted that his rt. hon. friend continued in those opinions. He told the Catholics of Ireland, "You may be as patient as you will—you may shed your blood, and give up every thing from loyalty to your King and Government; but expediency and justice require, that now and for ever, you remain aliens to the constitution." What a proposition for a Government to announce to a whole people! What must Ireland feel on finding, that though seventy-five of her own members voted for the Catholic bill, and of the remaining twenty-five who voted against it, five or six were English, the voice of her legislative representation was stifled? That Emancipation would be carried some day he was sure; because it had been triumphantly carried by that house. But in the mean time there was much that pressed for speedy concession, which had been too long delayed. The laws and government of England had worn deep and sore traces in Irish feeling; therefore was immediate change in many things necessary—therefore was it bad for Government to continue in its old course of exclusion. He complimented his hon. friend who made the motion, for having this night made the most valuable of all his patriotic exertions to save his country from ruin and despair (loud cheering).

Mr. Peel applauded the sentiment of the hon. mover in wishing to avoid all topics of irritation, and in the conduct in which he had so ably conformed to it. For his own part, he was resolved to follow so good an example. Had he been otherwise disposed, his hon. friend who spoke last had given him more than enough occasion. He felt no necessity to apologize for the opinions to which he adhered, and which were his hon. friend's too, within six weeks, because he could not, like his hon. friend, be converted by Dr. Doyle's evidence. The change wrought in his hon. friend might be justified by conviction; but unless he felt equal motives, he could not be convinced. He would advise his hon. friend not to conclude, that because he had changed that he was infallible, and to leave some small degree of liberty to the judgments of those whom he had left in their former ignorance. He was still bound to give his former coadjutors credit for their integrity and their motives. Not six weeks ago was his hon. friend engaged in calling some parties to a strict account who had done something to offend an Orange Association. He (Mr. Peel) had then to advise the house to quell all angry feelings on the occasion. He had addressed his hon. friend as the chosen advocate of particular opinions on that question, entreating him not to precipitate a discussion that would produce no good, and might terminate in the most unfavourable manner. Yet he was now to be accused by his hon. friend, after this six weeks' communication with new opinions, of a want of uniformity and system (hear, hear). He might, possibly, have done wrong in adhering with so much steadfastness to old systems and old notions; but if there were any one charge to which his public conduct had rendered him less amenable than another, it was this charge of a want of consistency. He could safely affirm that he had, on no occasion, stood forth to oppose the petitions of the Catholics

without a feeling of deep regret at being obliged to resist the claims of so large a body of his fellow-subjects; for whom he entertained all those friendly sentiments that he felt for all claimers of his Majesty's subjects, but whose applications he conceived it to be his duty to the constitution to oppose (hear, hear). He had been perfectly willing, when called upon, to give his services to the Crown, provided only that he should be at liberty to retain his own opinions on this subject. At the same time, he considered it to be a part of his public duty to act cordially with his colleagues in all other respects wherein their sentiments concurred. He might confidently appeal to his *rt. hon. friend* (Mr. Canning) whether his personal opinions had ever influenced him in respect of the administration of the existing law? His most earnest desire had ever been that the law should be impartially administered between Catholic and Protestant. Let it be proved to him that in any case the contrary had happened: he would be the first to propose that the injustice should be remedied, and prevented for the future. He thought that every favour which might be extended to the Catholics ought to be extended in proportion to the respectability, rank, and opulence of the candidates. The hon. mover had referred largely, but somewhat irregularly, to discussions which had recently taken place in another house. Neither himself nor the hon. gent. could have any better authority, he presumed, for what had taken place on that occasion, than the newspapers—a species of authority constantly liable, as the hon. gent. must know, to error and uncertainty. But the *rt. hon. bart.* (Sir J. Newport) had gone further; for he had referred to proceedings of committees of the other house, to the extent of pointing out what questions ought and what ought not to have been put in those committees to the witnesses examined before them (hear, hear). But how was it possible for the *rt. hon. bart.* to judge as to the propriety of questions that were put to witnesses not before him—not before this house? He had said, however, that there were particular questions which the noble lord at the head of his Majesty's Government should not have addressed to the witnesses. Why, suppose that noble earl, or any other noble lord, chose to think differently of the matter; did the *rt. hon. bart.* suppose that it was possible to prevent such questions being put? It was a very bad, as well as inconvenient practice, to allude in this manner to the proceedings of the other house. But he would now come to the dry parliamentary question on the motion itself. He begged to ask, without referring for the present to the Catholic question, whether any parliamentary ground had yet been laid for the production of the papers (hear, hear)? In the early part of the present session, a motion had been made for the suppression of the Catholic Association; and in a later period of it, a bill had been brought in for the relief of the Roman Catholics from their present disabilities. On the first of these occasions, notice of a motion was given by an hon. member, for the production of papers relative to the communications which Government might have received on the subject of the Catholic Association; but so little importance was attached to it, that upon the night on which the motion was to have come on, no house at all was made. The second

question had been carried through the house without the same sort of motion being renewed. Yet now, when both of these questions had been discussed and passed, the hon. gent. moved for the production of papers that could only have been called for, he should have thought, on one of those preceding occasions—and of papers which he supposed only, but did not know to exist (hear, hear). The hon. member called for their production after both those questions had been disposed of for the present, in order to convert the Lords (a laugh). But in the alternative of such supposed papers never having existed at all, then he meant to propose a vote of censure against the Lord Lieutenant for having failed to transmit despatches of this character. Such parliamentary grounds he had never certainly till now heard assigned for the production of any public papers. But what were the terms of the motion?—"That all despatches relating to the origin, nature, and effects of religious animosities in Ireland be produced." No limitation, therefore, as to time or place (hear, hear). He must really ask the hon. gent. to leave those who had the responsibility on their shoulders, to judge, under such circumstances, whether the production of the papers intended by so extensive a motion would be productive of that good which he unquestionably contemplated. Of course those papers might include all that the Lord Lieutenant might have written to the Government, relative, among other things, to Orange lodges and associations that now, as he believed, existed no longer? Could any good follow from this exposition? Would it not tend to revive the unhappy feelings that had once been excited by the party spirit of societies which were now no more? Could not the hon. gent. suppose that there might be very good reasons for the Government's declining, at this juncture, to produce any communications that might so have passed between them and the lord lieutenant? Upon these grounds he doubted whether, if the house were in possession of these despatches, the hon. gent. could effect any good result by his motion. At the same time, he felt no sort of wish to conceal what the real opinions of the Lord Lieutenant were. Those opinions he conceived to be already matters of record; and he should not deceive the house if he did not explicitly state, that the same sentiments which that noble lord had already uttered in his speeches formerly, and latterly by proxy, were still warmly maintained, and cherished by him (cheers). For the reasons he had already submitted, he found himself under the painful necessity of opposing the motion.

Lord John Russell said, that as to change of opinions, there were undoubtedly occasions upon which it was not entitled to respect. But when he saw an individual possessing large property in Ireland and extensive family connexions, like the hon. gent. exposing himself to great personal obloquy by conscientiously espousing a different opinion on a great public question from that which he had at first entertained, then he must say, that change was a meritorious act of duty. As this was the last opportunity he might have in the present session, he (Lord J. Russell) was anxious to offer a few words on the subject of Ireland. He had supported the two measures of conciliation that had been introduced almost coincidently with the bill for the relief of the Catholics, because

he saw that many English county members, even, were disposed to vote in a conciliatory spirit; and because it would have been a pity to lose so golden an opportunity as the carrying of those measures seemed to offer, for effecting that conciliation of so large a portion of the King's subjects. But he should not think himself bound on future occasions by the votes he had given on those measures. As to the divided state of the Cabinet on this question, he thought it would be better to have one entirely hostile, than the present. He could very well understand the force of what Mr. Pitt had said in 1804, to Lord Fingall, and what Lord Fingall had subsequently communicated to him (Lord J. Russell), that "his opinion was in favour of the Catholic claims; but it was an opinion that could not be mentioned to His Majesty; the existence of his administration, and his ability to prosecute the war with France depended, perhaps, on the continued rejection of those claims" (hear, hear). This had been said to be a presumptuous speech on the part of Mr. Pitt; but it at any rate contained intelligible ground of opposition to the Catholic question. But what was there in the situation of affairs at the present moment that could be compared either in point of existing danger as to our foreign relations, or of the advantage to be gained by a perseverance in rejecting the claims of the Catholics, with the period at which Mr. Pitt might make use of both these arguments to justify the line of conduct which he adopted? The situation of the country was now in all respects essentially different. He should conclude by expressing his conviction, that unless Government speedily carried the Catholic question through both houses, the country was not safe, and there could be no tranquillity, not for Ireland merely, but for the whole kingdom.

Lord Francis L. Gower felt extreme reluctance at opposing the motion. If he thought the vote he was about to give would at all prejudice the interests of the great question of Emancipation, to which he would henceforward devote every energy he possessed, he should feel no hesitation in adopting a different course. The opinions he had formerly entertained on the Catholic question had been a good deal guided, perhaps, by personal considerations and feelings of a powerful nature; but all such were now merged in the consideration of the great principles upon which his vote would be given in favour of that momentous question (loud cheers).

The *Chancellor of the Exchequer* declared, that if he thought the production of these papers would lead to the attainment of the object which his hon. friend had in view, he would not oppose the motion. That hon. gent. seemed to flatter himself that the production of such papers would have an effect in allaying the irritation of Ireland in regard to the decision of another house upon the Catholic question. But he could not see how the effect was to be produced, even if these papers should appear to contain the very items which the hon. gent. anticipated. It was quite improbable that there should not be mixed up in the correspondence referred to, details of various kinds connected with the condition of Ireland, which would unavoidably produce effects the very opposite to those which the hon. member contemplated. On that ground alone he thought it inexpedient to comply with the motion. The line of argu-

ment which had been taken on this occasion by his hon. friend was much more likely to conciliate and assuage angry feelings, than any papers that his motion could include (hear, hear). He was anxious to do justice to his honourable friend for the tone and manner with which at a moment of peculiarly angry feeling, he had re-opened this discussion (hear, hear). With respect to the Catholic bill he (the Chancellor of the Exchequer) had expressed his opinions pretty clearly, both by his speeches and his votes in favour of it, and on the two other propositions that had been adverted to; propositions which he had supported, but certainly not without great reluctance, hesitation and difficulty. The noble lord who had attacked the consistency and conduct of His Majesty's Ministers, had done them the justice to say that he imputed to them no want of integrity; but still the noble lord observed he could not understand how they could reconcile it to their own consciences to be still in office (hear, hear). He could hardly, perhaps, as a minister, expect to be believed in the full extent to which he was about to speak, (hear, hear); but he would say, that if he thought he could forward the great question of Catholic Emancipation by going out of office, he would resign to-morrow (loud cheers). At the same time he would readily acknowledge that he could not see how ministers could be called upon to retire from the government at a time when the country was generally satisfied (hear, hear) and when he did not know how a government could be formed which should be unanimous on this question: but he deprecated the impression which it might suit the purposes of some persons to diffuse—that the question of Catholic Emancipation was so lifeless as it was made out to be (cheers). He was struck with the circumstance, that of the Irish members, who were formerly the most violent against it, a large number was added, but very lately, to the supporters of the measure. Other authorities in the state had also shown themselves very favourable to it; and it was still proceeding advantageously. So much of the debate of this night had been on extraneous matters, and the question on the motion was confined within so narrow a compass, that he thought it unnecessary to trouble the house with any further observations, and should content himself with opposing the motion.

Mr. Brougham said that the rt. hon. Sec. (Peel) had offered various reasons why the motion should not be complied with. In the first place, he said it went back to an indefinite period—that, with respect to dates, it was all at sea. If that were a sincere objection, he was sure the rt. hon. gent. had Parliamentary skill enough to know that he might at once have made the motion definite by limiting it; but if that had not occurred to the rt. hon. gent. he would tender, under favour of the hon. mover, his humble aid in limiting the motion, by the insertion of the words, "for the last twenty-four, or twelve, or eight months." The second objection was, that the motion called for a vast variety of particulars; some respecting Orange lodges—which would revive much unpleasant discussion. To meet this objection he would propose to limit the motion to such information as could be produced without detriment to the public service. The third objection was, one of a most extraordinary nature, and on this point the rt. hon. gent. had per-

formed one of the most nimble evolutions which he had ever witnessed. The hon. gentleman turned round on a sudden, and asked, "How do you know there is any such paper in existence?" He would answer that question by saying, that if he did not know the fact before, he knew it now; if the paper had not been in existence, the rt. hon. gent. would have said so, and that would have satisfied the hon. mover at once: just as the one reason, in the story, for not saluting—namely, that there were no guns or ammunition, was held to be more logical than the other twelve (a laugh).—As to the argument, that it would serve no good purpose to have Lord Wellesley's opinion on the subject in writing, because that opinion was already known by the proxy which he had given, he was at issue with the rt. hon. gent. He desired to see the language of the despatch in which the noble lord had declared his opinions, rather than the dumb proxy allowed by the custom of another place. He wished to know the reasons by which the noble lord backed his opinion. He wished to see the relation in which that recommendation stood to other recommendations of his lordship, on which Parliament had passed measures of great importance. In what way had the session begun? In the King's Speech, they were recommended to take measures against the Catholic Association. And why? Because it was said to be dangerous to the peace of Ireland. And how was that proved? "By the despatch," said the King's Speech, "of my viceroy in Ireland; here is the result of his experience and observation, and he advises that a law should be passed to put down the Catholic Association." If any country had been ill used in this proceeding, it might be Ireland—if any country had a right to complain, it might be England as well as Ireland. But there was one individual, and he an illustrious one, who had a great right to complain of the manner in which he had been treated in regard to his country—that country which might be happy under his sway, if he were allowed to pursue an undivided, uniform, and consistent system of government, but whose government, as matters now stood, distracted as it was, by one man being set to pull one way, and another to draw another way with equal and opposite force—thus counteracting the efforts of each other—produced no result which the country or Parliament had a right to expect (hear, hear). On the noble lord's authority coercion had been resorted to; on his recommendation the Catholic Association had been put down; but coupled with that recommendation was, as he was informed, a strong and anxious wish that they should accompany coercion with conciliation. They had adopted the first part of his recommendation, the rest they had given to empty air. Was it fair, reasonable, or consistent, or was it doing justice to Lord Wellesley, to ask Parliament to pass measures bearing a harsh and unpleasant aspect—to put down tumult, without at the same time doing what came recommended from the same parental mouth—opening the door of the constitution to the bulk of the Irish people? But ministers withheld those measures which would prove Lord Wellesley consistent, as well as kind and humane, because they would prove that they, ministers, had taken a false estimate of what the exigencies of the time required. The rt. hon. the Chancellor of the Exchequer

had endeavoured to explain how it happened that on the question of Catholic Emancipation he and others of his colleagues chose to submit to being defeated by the more influential part of the cabinet. He must confess that he could not understand the rt. hon. gent.'s reasoning; but more of that hereafter. He had read a great deal about the way in which that question had been opposed by persons in the other house of Parliament, although he must not mention what he had read. The house in which he was speaking was the only place in the universe in which any thing said in the other house could not be made the subject of observation. Any persons in any society, in any debating-club, in any tavern-meeting, in any smoking-room, in any ale-house in England, Wales, Ireland, or Scotland, might meet in safety and discuss, without hearing a word about breach of privilege, every act, every word, every speech, aye, every gesture of any individual member of the House of Lords, and be just as safe the moment after as they were the moment before (laughter). But he could not do so in that house. Well, it was a case of necessity, and he must submit. He had no right to make any allusion to what was said in the House of Lords. But there was nothing to prevent him—there he was on an equal footing with a stranger out of doors—from alluding to a libel which had been published, and which he expected to see prosecuted both in England and Ireland—he meant a speech purporting to be a speech of a most considerable person—of high military commanders, the highest—of those near the throne, the nearest—which had been circulated, as his hon. friend had made known, to his astonished ears, and he had no doubt the house partook of his astonishment, in Ireland, and which was printed in fair characters by Benbow, the greatest libeller both of religion and of government, and of persons, male and female, which modern times had produced, as the records of the Court of King's Bench could testify (laughter and cheers). That libel—a speech which never was spoken, which never could have been spoken by the illustrious person whose sentiments it purported to express—had been circulated in Ireland, by a noble peer. Of course his learned friend the Attorney-General would move to-morrow week, the first day of term, in the King's Bench, against Benbow; for any thing more scandalous, more outrageous, more monstrously injurious to the illustrious person in question, mortal fancy could not devise, than to make him say—as was done in the pretended speech—that when he came to the throne he would not govern according to the principles of the constitution, but according to a model and scale of his own—a scale which even James II. never dreamed of governing by, or if he did dream of it, never whispered it to the world when his conduct originated the bill of exclusion, or when it caused him to be actually excluded, to make way for his Royal Highness the Duke of York and family (cheers). James II. had never said any thing one-millionth part so scandalous as that which was attributed to the Royal Duke in this libel. He was glad that an example would be made of the printer here, and the circulator in Ireland, of this atrocious paper. He was extremely happy to find that the Attorney-General had resolved not to follow his usual practice of filing an *ex-officio* information. To move the Court of

King's Bench was more satisfactory (a laugh), as it would afford the Royal Duke an opportunity of denying on oath, which he knew he was very anxious to do, that he had spoken the speech which was falsely attributed to him. But the Royal Duke was not the only person who had suffered in public estimation from the misrepresentations which had gone abroad respecting them. With respect to a noble marquis, who had been alluded to, he must say he thought he had been misunderstood. All that he had intended to say was, that if this country was to enter into a struggle respecting the Catholic question—that last and most dreadful of all the calamities before them—it was better that we should do so now than at a period when we had a foreign enemy; and there he agreed with the noble lord. The noble lord had, perhaps, not being used to public speaking, expressed himself rather awkwardly, just as he (Mr. Brougham) might get into a scrape, if he were to attempt to review any of the noble lord's military operations (a laugh). Now he came to the *rt. rev. prelates* (a laugh), two of whom were held up to public estimation. One *rt. rev. prelate* who had formerly supported the Catholics—before he became a bishop (a laugh), but who was now opposed to them had—would it be believed?—this bishop, being of sound mind (a laugh), in order to prove that he and his right rev. brethren had no sinister motive in opposing the Catholic claims, but were actuated by nothing but what was most pure, had referred to the case of the seven bishops—the very seed of the church. But, good Lord Bishop, very different were the two cases. The seven bishops opposed the King and the Heir Apparent to the Throne: they resisted the encroachments of arbitrary power; for this they went to trial, and for this they were prepared to go to the scaffold. The good Lord Bishop should remember, too, that by his opposition to the Catholics, instead of exposing himself, as the seven bishops did by their opposition, to the liability of going to the tower by water, to be there shut up, and afterwards brought to Westminster-hall for trial, he exposed himself only to the danger of further promotion (a laugh). The most imminent danger which he would run was that of being expelled from his own see to another—it might be better, but in the common course of things it could not be worse (laughter). The jeopardy which he ran was that of going along with the high court party and the heir-apparent; and his extreme devotion towards the rising sun would not, as sometimes happened, operate injuriously to the *rt. rev. Father in God* in the present reign; for in the course he was pursuing, he would just do himself as much good in the present reign as he expected by reversion in the next (laughter). Surely the persons who had put forth such libels on the *rt. rev. prelate* to whom he alluded, would be subjected to prosecution. What could be more scandalous than to make a *rt. rev. Father in God* talk such unaccountable nonsense? That it was a libel, any body who ran might see—aye, if he ran as a bishop would from Chester to Duham (laughter); or as a curate ran, which was, it was said, as the crow flew. He hoped all those matters, which greatly amused himself and others, would be set right at the earliest opportunity, by bringing the offending parties to trial. The House of Lords, however, were not placed under such restraint with regard to

speaking of other assemblies as the House of Commons. What would be said to him, if he were to talk of a noble and learned lord in the other house, as that learned individual, for reasons of his own, most conscientiously—for he must be taken to be more conscientious than any other man, as he was always talking of his conscience—had chosen to speak of two members of that house, whom he alluded to as lawyers “eminent in their own estimation?” But with respect to much of the trash which had been uttered in another place about the manner in which the Catholic bill was framed, he could relate an anecdote, which might teach some persons the propriety of being more modest on such a topic. He remembered on one occasion, the noble and learned lord talked for half an hour about the provisions of a bill which had gone up to the other house. “Was ever,” said the learned lord, “such stuff to be seen on the statute-book?” There, by-the-bye, the learned lord showed but a moderate acquaintance with the statute-book, for there was no absurdity which might not be found there. “What lawyer,” continued the learned lord, “could have written this?” Thus, most conscientiously, advertising him (Mr. Brougham)—for the bill was his—to his clients, as a person who was no lawyer. It turned out that the very parts of the bill to which the learned lord objected had been written by himself six months before, and he had forgotten it. He pulled out of his pocket, in the presence of a near relative of the noble lord, the manuscript with all the absurdities in the noble lord's hand-writing to which he objected in the printed bill, and which he (Mr. Brougham) had introduced only in compliance with the noble and learned lord's wish, having in the first instance objected to them himself. Remembering all these things, the rejection of the Catholic bill had not at all diminished the respect which he had, previously to that event, entertained for that august assembly. It gave him satisfaction, however, to know, that though that assembly believed they had set the Catholic question at rest by mustering their large majorities, it never would be set at rest till that was done which alone could tranquillize Ireland, giving her equal justice, and making equal law for the millions as well as for the few (hear, hear). The opponents of the Catholics might set forward their military commanders, they might array against them their subtle lawyers, for the first time changed by the new light which appeared to have broken in upon them from the declaration of war, falsely ascribed to a Royal Duke; and here he must say, that this document appeared to have deceived even the premier, and to have warmed him into a degree of ardour, obstinacy, and pertinacity in adhering to policy now exploded in the eyes of all reasonable men, which he had never before expressed so determinately or so dogmatically. They might bring into the field their military patriots, and their legal patriots, and, by the assistance of their proxies, and their forces from the west and the north, obtain a triumph—not over the House of Commons, for of themselves they should not think for an instant—but over Ireland, over England, over right and over justice. That triumph, however, would be but momentary. They might now exult, but their tone of exultation would soon be turned into another strain. Of one thing let them be well assured—they had not done with the Irish question by their vote. It was not easy to



still the cry of six millions of their countrymen, even if that cry were wrong; much less when it was the cry of right, of reason and of justice, against mere brute power and unreasonable obstinacy, which set all justice at defiance (cheers). To the people of Ireland he would recommend submission to the law—bad, bad as it was; but he agreed with his hon. friend in counselling union—above all things union (cheers). Let no little personal piques or local differences divide them—let not even considerable differences of opinion for one moment split them who should unite as one man, and who if united must conquer (cheers). The lords—the bishops—the heir presumptive to the throne—all could not defeat them, nothing could do that but their own disunion and violence. He had to say a few words respecting the disunion in the cabinet on the subject of the Catholic question. It appeared strange that the country should be governed by ministers who could agree about a joint stock company, but not upon a question which distracted a great part of the empire. In Mr. Pitt's time, that minister was accustomed to say that he could not attend to the Catholic question whilst he had to watch the Emperor Napoleon: but now Napoleon was dead, and the Catholic question was the only important question which could arrest the attention of Government. Mr. Pitt, too, used to say that the late King would not hear of the Catholic question. His late Majesty was an elderly man of formed habits, and his scruples were conscientious, and therefore entitled to some respect. His present Majesty, however, was not in the same situation as his father. He was, to be sure, a man well stricken in years, though not of very venerable age (a laugh), and had no conscientious scruples that he had ever heard of (laughter) with respect to the Catholic question. On the contrary, his Majesty had always stated that he was in favour of Catholic Emancipation. He had repeatedly given his pledge in private to support the question, to the leaders of the measure, and with that they had been satisfied. But he would pursue that matter no further. He could not help feeling regret that those members of the Cabinet who were favourable to the measure should compromise with their colleagues who were opposed to it. He hoped yet to see the day, however, when a stand should be made for the question. If it so happened that they left office, they would, indeed, quit the smile of the court; but they would quit it for the gratitude of the nation, and for the still more delightful and imperishable reward, the applause of their own hearts and self-approving consciences (much cheering). To address himself, however, to those—if any—who might treat recompenses like those as somewhat visionary (hear, hear)—who might consider the applause of a country, and feelings of self-approbation, as topics pleasant to declaim about, but not, in practice, very profitable or desirable (laughter)—to those gentlemen he would suggest—and this, at least, was a doctrine which they would listen to—that there would not be much risk in making the stand which he adverted to, for he did not think that the sacrifice of places would be demanded. He did not much expect, although he had in his time seen strange things, to see an administration formed out of the hon. member from the west of England (Sir T. Lethbridge) and the right hon. Sec. (Peel). Those persons

who on a late occasion had prevented the rt. hon. gent. (Mr. Canning) from quitting his native country (hear, hear) would interfere again, if they found him resolute; and rather acquiesce in his opinions than suffer him to quit his place. He might enjoy, if he would only condescend to accept it, one of the highest triumphs which it was possible for ambition to conceive; for he (Mr. Brougham) again asserted, as his decided opinion, that it was impossible to try the question as he advised, without securing a glorious victory (much cheering). His hope still was and his prayer, that the friends of Catholic concession would end their compromise and save Ireland; but if they did not, still he did not despair; nor would he ever despair of a cause which had the strength of right, as well as of numbers to back it (hear, hear). The Catholic cause had principle to build itself on, and popular favour to adorn it. Let Ireland be but true to herself—let unanimity prevail among her children—let violence give place to sterling, steady opposition, directed systematically and constitutionally against a government in which they could not for a moment reasonably trust; let Ireland only adopt this course, and he had still no doubt, that, by herself—if left by those who called themselves her friends—she might work out her own salvation.

Mr. Plunkett thought it probable that the resolution had been chiefly moved for the purpose of affording hon. members an opportunity to notice the Catholic question in its present situation; that end having been answered, he was inclined to submit to the hon. mover whether it was worth while to push it any farther. As far as he could learn, the despatch demanded was not required with a view to any measure either pending or intended to be introduced. This being the case, it could only be called for—supposing it to exist—for purposes of abstract discussion—and for such purposes he was not prepared to give it; and if it turned out that no such despatch existed, then the absence of it was to raise a ground for inculpation against the noble marquis at the head of affairs in Ireland. Now he saw no ground made out, as far as either of these intentions went, for calling upon government to produce the despatch in question; nor did he think there was any pretence for alleging that ministers had only followed up the coercive measures recommended by Lord Wellesley, and that they now refused to produce the document which contained the noble lord's counsel as to amelioration. He did not know that he could personally speak to the despatches of the noble marquis, but he believed that he was pretty well acquainted with his sentiments; and, as far as he could judge, there had been no measure, either of inquiry, grace, or favour, recommended by him, which the English government had not, in the fullest extent, attended to. Having said thus much and just taking leave to add, that upon the Catholic question generally, he believed the sentiments of the noble marquis to be entirely unchanged; that his opinion as to the paramount necessity of the measure was as strong as it had ever been at any period of his life;—having said this, he should pass by entirely the question as to the motion itself, and trouble the house with a few observations, in reply to those which had fallen from the learned member for Winchelsea. With respect, then, to the

Catholic claims, be thought that the country was left, by the recent decision, in a situation deeply to be lamented. The difficulty was not merely that the question of Emancipation had failed, but that a positive opposition of opinions was avowed between the lower and the upper House of Parliament. The question had on this occasion been brought forward, by the hon. member for Westminster, without his aid, and he might say without his concurrence. Had his opinion been asked at the time of its introduction, he should certainly have said, that the period chosen was unfortunate; but he had not thought fit to volunteer that declaration after the bill was before the house. In what had happened, all circumstances taken into view, he found nothing to excite surprise; but still less did he see any reason for desponding as to the eventual and speedy accomplishment of the measure; for he agreed entirely upon this point with the learned member opposite, that the success of Catholic Emancipation could never be prevented unless by the egregious folly of the Catholics themselves. If they would only be tranquil, firm, and resort to no other arms than those with which the constitution supplied them, the success of their cause was as certain as its justice. For the charge that the Catholics themselves were careless as to its accomplishment, he cared nothing; if the Catholics should come forward to-morrow, and state that they were indifferent about the measure, he should say that they were hypocrites, and did not deserve to be believed; he would prefer believing that they were false, to admitting that they were degraded. There was no security for the constitution—for the existence—of any country, in which five millions of the inhabitants were supine about gaining rights which belonged to them (hear, hear). Having, in an earlier part of the session, stated fully to the house the grounds upon which he supported the Catholic claims, he should only take leave to say a few words now as to the consistency of a Government's being divided upon so important a question. As far as precedents went, one of the hon. gents. who most vehemently objected to such a division, had himself declared, that upon the question of Parliamentary Reform—a subject scarcely less vital—he should be prepared to form part of an administration not agreed. He believed that if the Government had been formed entirely of individuals inimical to the Catholics, their cause would have made far less progress than it had done. With a divided Government, the Catholic bill had obtained a majority in the House of Commons. His rt. hon. friend (the Chancellor of the Exchequer) had declared that if he thought his giving up office could promote the success of the measure, he should not hesitate a moment to relinquish it. For himself, he might say that he had been placed in one situation at least, in which his sincerity had been tried; and, certainly, he felt no difficulty in making the same declaration. His opinion was, however, decided, that such a course could only be prejudicial to the Catholic interests. The learned member for Winchester had observed upon an expression, certainly not of a favourable description, supposed to have been used in reference to his conduct by an illustrious person high in office. That comment, although the learned member did him the honour to place himself also within its bearing, was cer-

tainly of a nature which could not be suffered without pain, and that fact might perhaps seem to make some difference, as to the propriety of continuing to hold office, between his situation and that of some of his hon. friends who were near him. Under such circumstances, he might be pardoned, perhaps, for stating that he had been favoured with an interview with the noble personage in question. The result, however, was, on his part, the most perfect conviction that nothing like offence, or want of kindness, had ever been contemplated towards him. Under these circumstances, he should sit down by declaring that his zeal on behalf of the Catholic claims remained unabated, and that he thought he should best promote the interests of that question by retaining his office (cheers).

Mr. Canning hoped to induce the hon. member for Limerick not to press his motion; but, after all that had passed, it was impossible for him to sit still without troubling the house with a few words. With respect to the reference which had been made to divided Governments, he had never meant to say that it would not have been desirable to constitute an unanimous administration; but there was a wide difference, and such a difference as no wise, and perhaps he might say honest man could fail to see, between the question of forming a new Government, and of dissolving one already in existence. He concurred with his rt. hon. friend the Chancellor of the Exchequer, and he would say, with the most perfect sincerity of heart, that if he thought his relinquishment of office could conduce to the settlement of the Catholic question, he would not hesitate one moment to make the sacrifice. Not that he did not see, without meaning to over-rate any advantage contingent upon his continuance, that his withdrawing himself from the Government would be attended with some public disadvantage; but he should think that the public good obtained outweighed that disadvantage. But his opinion was founded upon recent and anxious deliberation, that his relinquishment of office at present could only serve to bring on public evils of the most tremendous character, as well as to throw the prospects of the object which it was intended to serve still further back than ever. It was not likely that he should venture to make an assertion which was untrue before a great number of persons who would have the means of judging of its truth; and he did say, standing under those circumstances, that he was convinced that the course recommended to him by the learned member for Winchester would be fraught with calamity to the country. This only he would add, that he held himself as perfectly at liberty to discuss the subject in question in the cabinet as any other; but, at the same time, he reserved to himself the discretion of using that liberty at such times as he thought most expedient. With respect to the Catholic question, in its present extraordinary position, he felt some difficulty about stating his opinion; because, in whatever he said, he was liable to one of two accusations. If he said that he thought the question was not so forward in the opinions of the country as he could wish it to be, he should be charged with risking the creation of the evil which he deprecated: if he stated confidently that he thought it had made great progress, then he should be told that he excited hopes, which circumstances afterwards would

not enable him to realize. In such a dilemma, he knew but one course, which was to speak the direct truth according to the best of his judgment, let the consequence be what it might. At the commencement of the present session, he had said that the minds of the people of England were not matured for the measure. This had been denied; and different minds, no doubt, would draw different conclusions; but, from all that had happened during the session, his opinion remained unchanged. He did, however, believe that in the higher and more enlightened classes of society, great progress had been made, and he believed that the resistance generally was passive rather than active; and that, where it had been goaded into violent motion, it was generally some friends of the cause who were to be thanked for that result. But, whatever was the fact as to England, in Ireland the difference which manifested itself was most striking. That measure, which had appeared originally almost in the shape of an appeal by one part of the population against another part, came now forward almost without dissent from any, and bid fair shortly to be recommended by all. Such being his view of the state of Ireland, he thought that the question must make its way. The ground on which the bill was resisted was untenable. If the argument proved any thing it proved too much—if Catholics could not be good subjects under a Protestant government, they could not be good subjects at all. Besides, he did not like that argument of "divided allegiance," or measuring men by a scale as it were of moral geometry. If we had but half the allegiance of the Catholics, why was it we had but half? Homer answered the question, who was a better judge of human nature than Euclid: "A man," he said, "is but half a man, unless he enjoys all his rights." In glancing, however, at what had passed in another place, he was bound to vindicate one noble friend of his (Lord Liverpool) from the charges which had been thrown out against him by the learned member (Mr. Brougham). The learned gent. seemed to think—a consideration which had given him (Mr. Canning) some pain—that the speech of that noble lord to whom he alluded had been measured after another speech which he had designated as a libel—measured to fall in with it. His noble friend was incapable of such a thought or act. If there was a man in England who would not suit his opinion to the view of any human creature, his noble friend was that man. Indeed, if the learned member had only looked to the whole contents of the speech in question, he would have seen the most glaring, the most perfect, discrepancies between it and the speech to which he endeavoured to assimilate it. Who, among all the persons who had spoken on the subject, had disposed so unceremoniously, yet so satisfactorily, of the idle objection of the coronation-oath to the removal of civil disabilities, as this very nobleman, who was represented as imitating the tone of a speech in which the objection of that coronation-oath formed the chief feature? When the learned gent. remembered the weight with which such an admission must come from an opponent like the noble lord, he should not have so unceremoniously condemned him. He would conclude by saying, that if he could sum up his feelings in a few words—and perhaps the hon. mover would not undervalue his feelings—he could assure him that the produc-

tion of the papers for which he called would utterly falsify his conclusions (hear, hear).

Sir F. Burdett said, that the speech of the noble lord, which had been so often alluded to in the course of this night's debate, had struck him as a most extraordinary effusion. He believed that no speech had ever been made by any public man which produced a more unexpected and more painful effect on the people of Ireland, than the one in question. They had been encouraged to hope that there was at least some mitigation of the hostility with which that noble lord had hitherto met the Catholic claims, and at the very moment when the country expected, if not his support of the question, at least a very mitigated opposition, he had adopted, for the first time, a tone of uncompromising violence, to which he had never before resorted upon any question. That speech, however, afforded no ground of despair on the general question. Whatever might be thought by some hon. members, that the present session was not favourable to the discussion of the Catholic question, he was of opinion that the discussion this session had advanced it more than that of any other. They were mistaken who thought that the general feeling of the country was against it. He knew not whether it arose from a more sanguine temperament, or from his anxiety for the advancement of the cause; but he certainly thought that he perceived a very different feeling with regard to this question among the public at large; not only among the enlightened and liberal classes, but even among that uninformed portion of the public, in which ignorance and a bigotted prejudice prevailed for a long period in this country. The proof of this was, that whenever the question had been brought before large bodies of the public, they had uniformly supported the liberal side, and opposed the intolerant. As a specimen of the feeling of the working classes in favour of the question, he might refer to a speech of a working man at the meeting at Manchester—a speech full of wisdom, sound sense, and good feeling, and in which the sentiments uttered by the speaker would have become a man in any rank or station (hear, hear). To him it was a subject of great pride, that such a specimen of the working people of England could be exhibited to the world. These, and similar considerations, afforded him great encouragement that ere long the question must be carried. The rt. hon. gent. (Mr. Canning) had given much more credit to the noble lord's concession about the coronation oath than it deserved. It was no very violent proof of the noble lord's independence of spirit to express a difference of opinion as to that single point, when the main purport and conclusion of his speech were in such perfect conformity with the model from which the rt. hon. gent. now attempted to persuade the house that he had in that instance magnanimously swerved. The royal person who had been alluded to, or rather, who must not be alluded to, however scrupulous he might be about the coronation oath, was not, he (Sir Francis) should suppose, very scrupulous about the reasons of those who were willing to come to the main point of supporting that side of the question, which he seemed to have taken so much to heart, and with respect to which he had in so extraordinary a manner pledged himself to all eternity that he would never have any difference of opinion. There

was another part of the noble earl's conduct of which he thought the public had a right to complain. Why, he would ask, on a question of such vital importance, had that noble person kept his feelings and opinions in a state of such mystery? Or why, rather, had he held out hopes to persons most likely to be informed, with which hopes they had inspired the country, thus raising expectations which were not only not to be realized, but for which it afterwards appeared, from his violent and unstatesmanlike speech, that there was less foundation than ever? It was hard upon those persons who had stood forward in support of the Catholic claims, that they should have been allowed to remain in that state of misapprehension which led them to excite hopes, the disappointment of which might expose them to serious inconveniences, while the Prime Minister kept aloof in that equivocal state, in which he appeared at one moment to encourage expectation, which he at length determined not to realize. This was unjust towards the Catholic Deputies; it was unjust towards the Catholic Bishops and Clergy; it was hard, for instance, upon a man like Dr. Doyle, who had been induced by the ambiguous conduct of the Minister to express his concurrence in measures to which, but for the prospect held out at one time, he might not have given his assent. Was this conduct generous—was it even just? The conduct of the noble lord was the more to be regretted, when it was considered that this question, at all times one of great importance, had become, since a recent declaration, still more important, and more pressing than at any former period. No one could tell what might be the consequences of delay; he should be sorry to hint at what might, by possibility, be the consequences, and he was willing to indulge a hope, that the Catholics would adhere to the same prudence and forbearance which they had hitherto found so advantageous to their cause. At the same time, it was impossible not to feel some apprehensions as to the consequences which might result among a people of such quick sensibility, from hopes so strongly excited, and now so bitterly disappointed. He trusted they would look forward, as he did, to the enlightened liberality of England, and that they would continue to conciliate their Protestant brethren of Ireland. He did hope that when they next came before Parliament, backed, as he had no doubt they would be, by the majority of the Protestants of the country, their case would be sent from that house in such a shape as it would be impossible for the other house to resist (hear, hear). Some observations had been made about a divided Cabinet. It might perhaps be difficult to procure a Cabinet united on this subject, circumstanced as the Government was; but looking at the urgency of the question, he did not see how the Government could be carried on without some settlement of it. It had been attempted, in the course of the debate, to draw a parallel between the Catholic question and the question of Parliamentary Reform; but those questions, though both of great importance, stood on different grounds in point of urgency. It could not be said that Reform was a matter of immediate necessity; though, for his part, he could wish that the people of this country had somewhat of the same feelings as the Catholics of Ireland with respect to their particular grievances, and that the doors of that house were besieged by peti-

tions for Reform. But who could tell what might happen if justice to the Catholics of Ireland were much longer delayed? In his opinion, having done so much for the repeal of the penal code, we should best consult the interests of the country by conceding the little which remained. It was impossible to go back, and it would be equally difficult to exterminate six millions of people (hear, hear); it was, therefore, better to go on, and notwithstanding the untoward result of the discussions this session, he looked forward with confident hope to the decision of the next (hear, hear.)

The question was then withdrawn.

### *Marriage Acts.*

TUESDAY, FEB. 8.—Dr. Lushington moved for a copy of the committal of four persons, W. Quigley, Cockayne, and Anne and Martha Lowten, to the gaol of Londonderry, in Nov. 1824, on an alleged violation of the Irish Marriage Acts. It appeared from the statement which was given to him, and which he had every reason to believe correct in all the main facts, that two men, professing the Popish religion, were married by a Catholic clergyman to two females of the Church of Scotland. On that event taking place, an information had been laid before certain magistrates of the county of Londonderry. On the receipt of that information, they issued summonses to the four married persons, and called upon them to give evidence as to the Catholic clergyman who married them. On their refusal, they were committed to the common gaol, there to remain without bail or mainprize (hear, hear), in pursuance of the statute. In that prison the husbands and wives were kept apart. That, at least, was no part of the statute (hear, hear). The only offence, it will be recollected, of which these persons were guilty, was, that they refused to give evidence of what the law called the illegality of the celebration of their marriage, and refused to betray the clergyman whom they solicited to perform it. He held in his hand an abstract of the various statutes passed from time to time by the Parliament of Ireland, to prevent the intermarriage of Protestants and Catholics, through the intervention of a clergyman of the latter persuasion. Such a catalogue was a melancholy illustration of the merciful spirit which actuated the legislature in that country (hear, hear). It showed the object at which they aimed, and that they were actuated by no regard to the principles of justice and law. These statutes were pregnant with injustice, and struck at the root of all moral feeling;—they were, besides, in violation of every principle of reason and law:—they were stimuli to disaffection and disturbance; and ought to be no longer permitted to operate (hear, hear). Though the severity of those enactments was calculated to render them inoperative, the legislature were never awakened to the real evil. Severity followed severity, and each succeeding act exceeded the malignity of its predecessor. The act of the 8th of Anne made the celebration of a marriage by a Catholic clergyman, between a Catholic and a Protestant, a capital felony, and in order to secure a conviction, it was expressly stipulated that if the party were known to be a Protestant at the time of the marriage, "it should be presumed, allowed, and concluded, to all intents and pur-

poses," that the said priest, himself, knew the fact to have been so, and upon that assumption proof was to pass against him. Among all the absurd and oppressive enactments, he never met with such another as this: it was impossible to find one in which that first principle of reason and justice, that a man should be deemed innocent until the contrary were proved in due course of law, was so entirely abrogated. The preamble of the 12th Geo. I. c. 3, ran thus:—"Whereas clandestine marriages are mostly celebrated by Popish priests to the manifest ruin of several families, who are exposed to much inconvenience thereby, &c." To prevent this *inconvenience* the law went on to enact, that it should be lawful for any two justices of peace to summon before them such persons as were "suspected of being married by any Popish priest;" and on the appearance of the said persons, "to examine them upon oath," that is, to compel them to disclose the name of the clergyman who had so married them, and to whom they must themselves have necessarily applied to have their marriages celebrated—to betray the individual they had themselves induced to commit the act for their own purposes; and if either of the parties so summoned, refused to be bound over in a special recognizance to prosecute the clergyman who had married them, they should be committed to the county gaol where the offence was committed, for three years, without bail or mainprize (hear, hear). There were six or seven other acts relating to these marriages: the last act, that of 1793, avoided marriages so celebrated, and imposed a fine on the clergyman of 500l. A difference of legal opinion existed in Ireland, whether by this act the former Marriage Acts were repealed or not. If they were not repealed, there arose the anomaly, that the clergyman might be hanged by one act, and afterwards fined 500l. by another (a laugh). It became the bounden duty of that house to prevent the recurrence of such odious and repugnant occurrences, as that to which his present motion referred. With that view, he had felt it his duty to bring forward the subject, and move for the production of a copy of the committal of the imprisoned parties.

Sir George Hill warmly defended the conduct of the magistrates alluded to in this transaction, who were the most respectable and honourable individuals in that part of the country where they had resided, and than whom there were none more incapable of committing any unworthy or oppressive act, in either their magisterial or their private characters. The facts of the case were these:—In the last summer there was a Popish priest at Londonderry, who was remarkable for celebrating the marriages of Catholic males with Protestant females, and this had led to extraordinary uneasiness in the neighbourhood (a laugh from the Opposition). The Presbytery felt bound to notice the fact: they remonstrated with Mr. O'Flaherty, the priest, upon the illegality of his conduct; he pleaded ignorance of the law, and thought it only applied to the marriages of Protestants of the Church of England, and not to Presbyterians; he entreated forgiveness for the past, and promised that he would not again transgress, and there the matter with him ended. In the course of the last autumn, however, this priest had a curate, named O'Hagan, who celebrated similar marriages. On the

4th, 5th, or 6th of last November, whilst the magistrates alluded to were sitting at petty sessions, a complaint against O'Hagan was formally laid before them: they felt that the subject of complaint was unusual, and as the parents who complained had brought an attorney with them, it was necessary to proceed legally, and refer to the statute-book, where it was found that in this particular infringement of the law the magistrates were not invested with any discretion—that the enactment was imperative, and the proceeding explicitly defined.

Mr. Dawson thanked the learned doctor for the temperate manner in which he had introduced the subject, and particularly for his considerate and commendable delicacy in withholding the names of the particular magistrates. He entirely coincided in opinion, that the marriage-law in Ireland ought to be made clear and conclusive, and was aware that there was some difference of opinion among the Irish lawyers, whether or not the act of the 33d Geo. III. (inflicting the penalty of 500l. on the officiating priest) had repealed all the previous statutes. With respect to the particular case, he could state that O'Hagan knew of O'Flaherty's promise not to repeat the offence, and was so conscious of his own misconduct, when he married one of these young women, that he actually bound her over by a solemn pledge of secrecy not to mention the occurrence. The parties did afterwards give the evidence which led to their release from imprisonment, and O'Hagan fled the country like a man who knew he had to answer for a criminal offence.

Mr. North regretted that these marriages were not uncommon in Ireland; there were none, however, which carried worse consequences in their train; they were null and void by law, and the progeny of them bastardized—their ultimate consequences in nine out of every ten cases was the desertion, abandonment, and destitution of the unfortunate women who were the victims of them. On the subject of the law he denied that there was that difference of opinion which had been alluded to. It was perfectly understood by the profession in Ireland, that the 33d of the late King had repealed the previous statutory penalty, which made the crime a capital felony. Upon the policy of these statutes he did not mean to give any opinion, but reserved to himself hereafter the right of considering what penalty ought to attach to an offence certainly most injurious to the interests of society.

Dr. Lushington said, that as to the magistrates and their conduct, he could not help making the remark—that there never was a case in which the act of one of that body was impugned, without their being at once overwhelmed with the weight of the eulogiums flung upon the magistracy for the possession of every virtue (cheers). It was singular enough, that in this case, where the magistrates were represented to be popular with the Catholics before this act, they became the reverse afterwards, which was a conclusive proof of the impolicy of the statute that could lead to such a spirit of animosity.—The motion was agreed to.

### *Burials Bill.*

LORDS, THURSDAY, JUNE 2.—The Earl of Radnor, after the clerk had read the act of last

session which repeals the act of William III., and makes further provision for burials in Ireland, said that his objection to this act was founded altogether on a religious question. The act which he now proposed to repeal, was a protection for all sorts of heresies. The act seemed intended to enable every sect to disturb the Church. In order to correct this impropriety, he would submit to their lordships for a first reading a bill to repeal the act of last session, to be entitled, "an act for regulating interments in Ireland in a more decent and orderly manner."—The bill was read a first time.

The Earl of *Liverpool* said, that undoubtedly the noble lord had a right by the courtesy of the house to introduce any bill, and have it read a first time; but he should not consent to the farther progress of such a bill as that which had just been read. The noble lord had truly said that this was a religious question. It was so, and it had been most deliberately discussed last session. No measure had ever received more consideration from both sides of the house, than the act of last session, and its adoption had been followed by public quiet and peace on a subject which had previously been a source of disturbance. The act restored the right of burying in monasteries; but as some old monasteries had become private property, it was necessary to introduce a clause to protect that property. With regard to churchyards, it was not doubted that all sects, whether Catholics or Dissenters, had the right of burial in those of the parish in which they resided; but out of this there arose an embarrassing religious question—namely, whether the clergyman of the parish was on all occasions bound to perform the burial service of the Church of England. The performance of the rites of the Established Church was objected to by many classes of Dissenters, and more particularly by Roman Catholics. To obviate this difficulty, the first thing done was to take away all obligation on the clergyman to perform the burial service; and next to give to Roman Catholics the opportunity of reading their prayers in the church-yard. The Catholic clergymen claimed a right to say the prayers of their church over the dead. By the act, that was not granted indiscriminately; but it was provided that it might be done on an application being made to the curate or rector, and he granting permission. But it was not to be done unless he granted permission, and in case of his refusal he was to state his reasons in writing, and communicate the matter to his diocesan. It had happened with respect to this bill, as with many other measures, that it pleased the extremes of neither party; but it had attained its object, and those whom its operation immediately affected appeared to be perfectly satisfied with it. Quiet had followed its adoption, and it had every where been well received. He had allowed the first reading of the bill the noble earl had introduced to pass; but if ever a second reading should be proposed, he would certainly object to it; and being sorry that it should go forth to the world that this subject was again agitated, he would oppose the usual motion for printing the bill.

The Earl of *Radnor* thought that in fairness, the bill should be allowed to be printed, and signified that he would take the sense of the house on the question.

The Earl of *Liverpool* had not objected to the first reading, as that, according to the prac-

tice of the house, was allowed as a courtesy; but with respect to the question of printing, that was quite another matter, and he would certainly oppose it.

On the motion that the bill be printed, their lordships divided—

Content, 1 — Not-Content, 30 — Majority against the printing, 29.

### Church Establishment.

COMMONS, TUESDAY, FEB. 22.—Sir J. *Newport* moved for leave to bring in a bill, amending the law with respect to parish vestries in Ireland, and providing for the more effectual control, as well as due expenditure, of Irish parochial rates. The existing mode of regulating parish business in Ireland was objectionable upon two grounds; first, there was no control as to the levy of the rate; and next, there was no sufficient responsibility as to the disposal of the money when collected. A great deal of difficulty as to all church matters must so doubt continue to exist in Ireland, so long as the religious parties of that country remained in their present anomalous situation. In the reigns of William and Anne the Catholics of Ireland as well as the Protestants had the power of voting in vestries. It was not until the reign of George I. that that power had been taken away; and that by the same statute, which declared it felony for any Catholic priest to marry either a Protestant or a Papist, or two Protestants. One of the last acts of the expiring Parliament of Ireland had been to unite a variety of parishes, on different pretences, one to another. The extent of some had been so increased by that arrangement as to exceed sometimes twenty, or even five-and-twenty miles. One crying evil arising out of that course had been, that people residing at one end of a parish were constantly compelled to pay for works or repairs done to a church at another; while, to that very building, which was raised at their cost, it was impossible in the nature of things that they could ever have access. In the last session he had moved for returns of church-rates levied in Ireland within the last ten years. Those returns were now before the house: they were extremely voluminous; but he would not go farther in them than was absolutely necessary for his present purpose. A very few items selected from the account would be sufficient to show that even the statute law made to regulate the conduct of vestries in Ireland was every day evaded, or openly set at defiance. One statute had fixed the salary of parish clerks, and had declared that in no instance it should exceed a given amount. That same law made a distinction between the payment at churches where the service was weekly only, and those at which it took place every day. Now, he would show at once, not merely that the salary fixed for daily duty had been given where the duty was only done on Sunday, but that even the utmost amount allowed for daily duty had, in many instances, been exceeded. For example, in the accounts of the parish of *Thurles*, in the county of Tipperary, he found one item of 37*l.* 10*s.* for ornamental hangings within the church. Now this was a work of decoration, not of necessity; and nine-tenths of the rate for it, let the house observe, was paid by Catholics who had no interest in, nor any access to the church at all (hear, hear). In the county of Wexford, again,

two parishes, ten miles distant from each other, had been united: here he found, among other curious arrangements, "Sexton and Beadle's salary," 10*l.*; raised, in the year 1814, to 30*l.*; and a note affixed, stating that this increase had been given "because the practice of ringing funeral bells was discontinued" (a laugh), "owing to the church having no bell" (much laughter). This was not a singular case; such items of "compensation" were very common. In the very next line of his list, he found "salary to parish clerk," so much—and—so much more, "compensation to the former clerk for having been removed" (hear, hear). In another instance, he found the charge of "20*l.* a year for an organist;" he knew of no right the vestry had to tax the parish for such a purpose. This very charge of 20*l.* stood afterwards, in the year 1805, increased to 50*l.* "in consequence of the corporation having withdrawn its 30*l.* a-year subscription, for want of funds" (hear, hear). The principle having thus begun, in the very next year there came a new item—"for winding up the clock;" that expense, as well as the pay of the organist, having got transferred from the corporation to the parish (laughter). But these measures, so far, had been moderate, the really doubtful ones were yet to come. Among the charges against the parish Castle Comer, in the county of Kilkenny, he found the following:—"To William Taylor, carpenter, for work done at the parish clerk's house, and at the school-house, 20*l.* 7*s.*—Interest on do. 2*l.* 2*s.* (a laugh). Now, who did the house think this William Taylor was? He was himself both parish clerk and schoolmaster (great laughter), receiving a salary of 10*l.* in the one capacity, and of 2*l.*, with a gratuity of 6*l.*, in another. In this same parish, in the same year, there was a charge of 37*l.* 8*s.* for church-robes—this to be paid by a population, nineteen twentieths of which, at least, were Catholic. In another case, the parish of Killeagh, in Queen's county, a subscription appeared, and an honourable one, towards repairing the church, of 20*l.* from the rector, and 50*l.* from the Marquis of Lansdown. With respect to a return from Tuam, where the cathedral was also the parish church, he must observe that the statute which authorized the Lord Lieutenant, in some cases, to unite a parish church with a cathedral church, had been so regarded the union at Tuam, entirely abused. The law said—"that whereas in certain dioceses of Ireland, the cathedral churches were so inconveniently situated that they could not be frequented for divine service, and were therefore suffered to fall into ruin and decay." Now this could not apply to Tuam Cathedral, which stood not "inconveniently," but in the middle of a town; but even where it did apply, he had very little doubt, that while the cathedrals went to decay, the dignitaries connected with them found means to collect and enjoy all the dues of their benefices. But the statute went on to say, that where this decay existed, and there seemed to be no probability of repair for want of funds, then the union with the parish church might take place, half all expenses of repair to be defrayed by the Economy fund of the cathedral, and the other half by the parish. Now, he repeated, the condition of Tuam cathedral could not justify this union at all; but still more, the expense of repair was now defrayed, not the half, but the whole of it, by the parish. It might be worth while

to consider hereafter of the treatment to which the persons who had petitioned against this measure had been subjected; but at present he would go on to the expenses charged against that parish, almost every item of which was in violation of the statute. To begin, the salary of the parish clerk was 20 guineas, 20*l.* being the highest rate, in any case, allowed by law. There was a sexton at 10*l.*, with an addition to that allowance in 1818. But the most curious charge was the next;—"For twelve quarto prayer-books for the church, 12 guineas" (hear, hear). "For two, bound in morocco, for the communion," so much (hear, hear). "For eight smaller ones," so much more. Scarcely a Protestant went into the church but had a prayer-book at the cost of the parish (laughter). With respect to the collection of the assessment, a Catholic gentleman had offered to collect it for 20*l.* This proposal had been rejected, and it had been given to some one else at 30*l.* (hear, hear). The effect of all this was, that the parish rate, which had in 1812 been twopence farthing in the pound, was now increased nearly three times over; it was sevenpence. Could any man doubt that there was a necessity for control over proceedings like these, when four or five Protestants, the only people of that class in a parish, were taxing the whole parish in any way they pleased (hear, hear)? One more rate, as to another parish, into which, by itself alone, all possible sins and violations of law seemed to be collected. Against the parish of St. Peter, Drogheda, there was charged, "An organist, 50*l.* a year;" "A boy to assist the organist, 5*l.* a year;" "To the tuner of the organ, 10*l.*" The parish-clerk was paid 30*l.*—ten more than was allowed by the statute; the sexton had 24*l.*—raised in 1818 to 31*l.* Then, for rebuilding the house of the parish-clerk and sexton—in the year 1815—429*l.* 9*s.* (hear, hear). Had any body ever heard before of a parish building houses for a clerk and sexton? And this was not all, for in 1823, there was—"For improving the clerk's house, 33*l.*" (hear, hear). A further item of 16*l.* 11*s.* appeared for wax candles (hear, hear, and a laugh); And for wine for the sacrament, from the year 1812 to the present time, from 21*l.* to 36*l.* annually (much cheering, and laughter). The cases which he had cited were perhaps the more prominent ones; but the returns were full of instances of a similar description. Against one parish there was a charge for "wine for the communion"—in one year, two dozen, 5*l.* 18*s.* As the quality of this was not thought good enough, in the following year there were two dozen more of a better flavour; and for this there was charged 7*l.* 2*s.* Every gentleman who knew the price of wine in Ireland must be perfectly well aware that no wine of the first order, at least no port wine, could cost any such sum as this. The truth was, that no check whatever existed, either upon the price paid for the wine, or on its disposal. The parish of St. George, in Dublin, had been regulated a good deal by a special act of Parliament; but here, as in many other cases, the papers called for had been so long kept back, as to prevent the possibility of any inquiry last session as to its affairs. This course, indeed, was understood, and followed pretty generally: whenever papers were called for which were to illustrate any grievance, the return of those papers was so delayed as to make any measure for the current session quite impracticable.

But, in St. George's parish, the burden of the rates was producing the most serious mischief. Houses, in consequence of the assessments, remained without tenants; and as the dues went on all this while accumulating, when a house had been two or three years unoccupied, the amount of the back rate made it impossible to take it. Now, in St. George's parish, the building of the church, which had been estimated at 16,000*l.*, had gone on to 57,000*l.* (hear, hear). A great part of that sum had been raised upon interest, which was now a heavy burden upon the parishioners, and the trustees for the building had contrived so as to be exempt from every audit of their accounts except their own (hear, hear). The parish had never been able to get any account from them; nor had any return been made in compliance with his motion for papers before the house. The necessity of change must be obvious to every man. His wish was, that where vestries were held for building or repairing churches, or for choosing parish officers, they should not have power to go into any other matter; and that, at all vestries held for purposes of a general description, Catholics as well as Protestants should be entitled to vote. A further provision would give the power of traversing any rate, and of subsequent appeal.

Mr. *Goulburn* felt no disposition to oppose the bill; for, to satisfy all parties, the readiest course was investigation. The Established Church must be maintained in Ireland; and maintained, as to all expenses that were necessary, by the whole population, whether they belonged to it or not. But, as far as the correction of abuse could go, if abuse existed, the present measure should have his best assistance. With respect to the particular instances which had been quoted, he was not prepared at the present moment to go into them; but he had already looked through the returns, and, before any further discussion took place, would endeavour to attend to them more fully.

Leave given to bring in the bill.

THURSDAY, APRIL 14.—Sir *J. Newport* rose to move for leave to bring in a bill to limit the power of holding a plurality of benefices, and to repeal the statutes, granting to the archbishops and bishops the power of forming episcopal unions in Ireland. The only pretences held out to justify these unions were, contiguity, weight of debt, and inability to meet the expenses. He wished to draw consideration to this question, because it was one which involved the well-being of the Established Church in Ireland. It was right that the body of the people in that country who adhered to the established religion should have fair means of religious instruction. What he had to offer on this subject would be deduced from the actual statement of the archbishops and bishops of Ireland contained in the papers laid before the Government on the state of the Irish Church. The primate of Ireland stated, that the union of parishes in that country might rank amongst the greatest defects of the system by which it was governed. With the exception of the Bishop of Norwich, no such authority was delegated to the prelates of this country; although such a power would have been more properly allowed in England than in Ireland, because here it would be more directly controlled by the force of public opinion. There were several cases where the parishes thus

united extended over large tracts of country, some of them being not less than eighteen miles distant from each other. It was impossible, where parishes were thus widely separated, that a clergyman could attend to the duties of both. In one union, three parishes were connected twenty-six miles long, and nine miles broad; in another, the tract comprised was forty miles long. The conduct of the archbishops and bishops had heretofore been very generally at variance with that which they ought to pursue; for though they made those unions, they must have seen the evils that arose from them. The emoluments derived from these unions were very great. He knew an instance where four parishes were thus united, the first of which produced 580*l.* a-year, the second 280*l.*; the third, 100*l.*; and the fourth, 720*l.*—making an annual revenue of upwards of 1,500*l.* a-year; and yet the duties were inefficiently performed. The incumbent of one of these unions, in the diocese of Kilmore, held 20,000 acres of land, besides 500 acres of glebe. The conduct of the present primate had gone a great way in reforming this abuse; but notwithstanding the meritorious conduct of the primate or of any other prelate, he thought the house itself ought to provide by law against the occurrence of the evil. He conceived that no faculty should be granted, allowing any individual to hold two livings, while one was sufficient for his maintenance. He then alluded to the opinions of the Bishops of Kilmore, Meath, and some others, in favour of his view of this subject; and concluded by moving for leave to bring in a bill to effect the purpose which he had stated in the commencement of his speech.

Mr. *Goulburn* did not mean to oppose the motion. If cases of abuse were made out in the Church of Ireland, he would not be backward in advising what course ought to be taken, for the purpose of checking them. He admitted that formerly considerable abuses existed, and that many livings were given to unworthy individuals for private reasons, but the present primate acted in a very contrary manner. He allowed no unions in his diocese. It was a great inconvenience that the same individual should be allowed to hold two livings, situated at extreme parts of the kingdom. But the primate had put an end to this, by issuing a canon similar to that which existed in England, forbidding persons to hold livings situate at a greater distance from each other than was allowed in this country. He was well pleased to find that no abuse cited by the honourable baronet occurred later than 1809—16 years ago—a circumstance which shewed the improved state of the Church.

Dr. *Lushington* conceived the proposed bill to be extremely necessary, because though some exemplary prelates did all they could to reform the Church, yet their successors might fall into error. Looking at the evidence lately laid before the house, he found, in one instance, a tract of ninety-seven square miles described as having but one resident incumbent on it. He hoped such a measure would be brought in, as would effectually prevent the enjoyment of pluralities, as he considered non-residence to be the great cause of the increase of clergymen in Ireland.—The motion was agreed to.

LORDS, TUESDAY, MAY 31.—Lord *Chyden* took the opportunity of a presentation of a petition praying for the erection of a Prote-



tant church in a certain parish in Ireland, to notice the practice of uniting different parishes in Ireland into one benefice. A census, undertaken by the priests, was going on in Ireland at present, which would show what the relative state of the Protestants and Catholics in the different parishes was. Much difference of opinion existed on this subject, and the noble earl (Liverpool) thought the Protestants more numerous than he believed they were; but the question would soon be settled. He thought that when the income of a parish was above 150*l.*, or at least when it amounted to 200*l.*, no union should be allowed. These unions were made from interested motives. In the County of Kilkenny no less than ten parishes were united, and extended over about thirty miles of the country. The evil of this system of uniting benefices was aggravated by the oppression of tithes collectors and proctors, and of courts in which an individual was judge in his own cause. He believed that nothing similar was to be found on this side of Constantinople.

The Earl of Kingston stated, that a tenant of his had been cited to one of the ecclesiastical courts for payment of sixpence.

Lord King had found on the table, a return which had been made to Parliament relative to the union of parishes. It was a very curious document, and might really be looked upon as "The Book of the Irish Church." His noble friend had taken notice of the union of ten parishes, but from the account he held in his hand, it appeared that in the diocese of Clonfert no less than eleven parishes were united in one benefice. In the diocese of Kildare, there were twenty-four single, and twenty-five united benefices. In another diocese, fourteen parishes had been united, and only six remained single; but Killaloe beat all the rest, for there 134 parishes were reduced into forty-two benefices. Their lordships had before now heard of the *ratio ultima episcoporum*, which was enforced with great vigour in Ireland. A bishop when he chose, came forward there, and *proprio motu* united two or three parishes, which made a pretty provision for a son or nephew. His noble friend had said that nothing similar to the ecclesiastical extortions of Ireland was to be found on this side of Constantinople. For his part, he doubted whether any parallel could be found even at Constantinople itself. Suppose a holy dervise, conversing on the subject with a Protestant priest of Ireland,—the rector of Skibbereen, for instance; the dervise might ask "How do you get money from your Catholics? Do you goad and squeeze them, as we do our Greeks?" The rector would probably answer "We don't spare our Catholics; but we have a far better way of managing the business than you, for you have nothing like our Bishop's Courts." His lordship concluded by reading from a paper a report of an action brought by an incumbent against the representatives of a preceding incumbent for dilapidation, by which it appeared, that it often happened that prayers were not read in the church for weeks in succession.

Lord Carbery observed, that great improvement had taken place in the Church of Ireland within the last twenty years. The document to which the noble lord had referred, contained only one side of the question. It was a return of the unions; but a return of those unions which had been dissolved ought also to be made. If the bishops united parishes, they could also dissolve the unions.

The Earl of Kingston believed the noble lord who spoke last, was mistaken in supposing that bishops could dissolve unions. That could not be done by the mere authority of the bishop of a diocese.

The Earl of Darnley remarked, that there was a return before the house of the united benefices which had been dissolved, and that they were very few in number.

COMMONS, MONDAY, MAY 9.—Sir J. Newport presented a petition from the inhabitants of Kilmoon, in the County of Cork, complaining of the oppressive conduct of tithe proctors.

Mr. Baring thought the statement in the petition called for the attention of the Sec. for Ireland. The real friends of the Church could not employ their time better than in providing a remedy for such evils. He suggested that some provision like that of the county courts' bill would be well calculated to effect this purpose.

Mr. Goulburn forbore to give any opinion upon the facts mentioned in the petition, but promised his attention to the subject. A bill was now before the house, which had been brought in by the government of Ireland, which had a direct tendency to the effect suggested by the hon. member (Mr. Baring).

Dr. Phillimore said, that no such case as that mentioned in this petition could have occurred in England, and the bill alluded to by his right hon. friend provided a summary remedy for all such cases in future in Ireland.

WEDNESDAY, MAY 18.—Mr. Brougham rose to present a petition from the Roman Catholic inhabitants of the parish of Aghadoc, praying that they might not be called upon to build a church for the Rev. Mr. Grierson, a Protestant clergyman. The learned gent. said he thought the petitioners' proposition was very reasonable, seeing the proportion which Catholics bore to Protestants in the parish of Aghadoc was as 300 to one.

TUESDAY, JUNE 14.—Mr. Hume, in rising to submit a motion relative to the Church Establishment in Ireland, said that he was fully aware of the importance of the question he was about to meet, and of the responsibility attaching to any individual who introduced propositions of this consequence into Parliament. But, being strongly impressed with the opinion that much of the evils which had so long afflicted Ireland arose from the present condition of its Church establishment, and that that establishment, so far from answering the purposes of its institution—the advancement of the welfare and happiness of the people—operated in a precisely contrary direction, he had determined to bring this important subject before the house. He would shortly state the grounds why the house ought to entertain his proposition, and, at an early period of next session, to inquire into the state of this establishment, with a view to effect such changes in it as the circumstances of the times and the country might seem to require. Having, in three preceding sessions, entered at length into the principles, and stated the details upon which that proposition was bottomed, he would not now go over the same matters again. Many of the facts that he had advanced on former occasions, and which were then most strongly contested, had been since conceded, and much of the argument with which he was then met had been since, as if it were by common consent, withdrawn: the

main object of his motion, therefore, he could not help thinking, had made some progress since he last stated it from that place. He was as well aware as any man could be, of the necessity and importance of religious instruction in every community. He was satisfied, from his own experience in Scotland, of the benefits to be derived from a system, the pastors of which attended regularly to their duties from January to December. From a system like this, much benefit had always been, and ever would, be derived to the community among which it obtained. He did not object, therefore, to the Establishment as an establishment for affording religious instruction to the people, but he called upon Parliament, as it formerly adopted the Protestant profession as best calculated for the interest of the English people, and the Irish Reformed Church as best adapted for Ireland, to inquire whether, in regard to the latter country, circumstances had not since occurred which made it expedient for the legislature to revise what it had so done? If it should be found that the present Irish Church establishment was not in any respect adapted to the due discharge of its duties—or was larger than the state of that country, or the nature of its society, required—or was better paid than was necessary, was it too much to say that the house would not be performing their duty, if they did not alter its condition? Paley had described a church establishment to be “only a means towards an end;” and the same authority declared that “religious establishments could not be shown to form any essential part of Christianity, but were only the means of encouraging it; for it could not be proved that among the early Christians there was any religious establishment.” From this authority he inferred, that as Christians they were not bound to any particular established form of worship; but that it was competent to the legislature, as heretofore, if the establishment which it had formerly authorised should be found not to have answered the ends proposed, to alter it; that as Parliament had once determined for the Protestant, and at another time for the Catholic religion, as the religion of the State; so it might again change its determination. It was a favourite maxim with some, that with the established religion of any state, the state itself must fall. He thought a more dangerous maxim was never broached, either as it regarded the welfare of the government or of the church. The church in all ages had manifested its subserviency to the government, which the latter had recompensed by the gift of proportionate privileges and property. But he was of opinion that the government should always stand upon its own footing, independent of the church; for though the religious instructions of the latter might improve the morals, and therefore the happiness of the people, the close connexion of state and church had never benefited either the morals or welfare of a nation. After disclaiming all improper or unconstitutional intentions, which some might unjustly impute to him on the score of a motion of this kind, he proceeded to state, that in looking to something which took place in the time of William III., he really believed that at one period that monarch intended to make the Catholic religion the state religion of Ireland. In one of his letters to the Irish Government, preparatory to some great public measure, it was well known that he requested them to pass an act

for the establishment of such a religion as might be most agreeable to the general wishes of the people. Circumstances intervened to prevent the accomplishment of this injunction, and matter of endless regret it must be that they should have done so; for had Ireland obtained the Catholic as her established religion, in the same way that Scotland had obtained the Presbyterian as hers, there was every reason to believe, looking to what had happened in Ireland within the last 120 years, that she would have enjoyed by this time a century of peace, happiness, and prosperity, instead of anarchy and misery—that she would now have been a flourishing nation, and England, instead of her jailer, as it were, would have been regarded as her benefactress. In what a condition was Scotland when it was attempted to force upon her a religion which was not more generally disliked by the Scotch than Protestantism now was by the great body of the Irish people! Did not bloodshed, violence, and insubordination prevail, till Presbyterianism was finally established as the religion of Scotland? It was not for him now to determine whether Catholicism, Protestantism, or Presbyterianism, the polytheism of the Hindoos, or the faith of the Mussulmans, would be the best system for this or that country. The question was, what the feelings, the peace, and the welfare of Ireland required for its established form of worship. This it would be the object of every good man, every friend to his country, to ascertain. No history could show so unbroken a series of discontents, misery, and violence, as the history of Ireland evinced ever since the Protestant religion had been there established as that of the state. He had been anxious to bring this subject on at an earlier period of the session; but had deferred the motion in deference to another which he considered of paramount importance—the proposition of his hon. friend (Sir F. Burdett) for the virtual emancipation of the Catholics. As the measure introduced by his hon. friend, however, had failed in a subsequent stage, he was only the more anxious to bring the question which he was now discussing under the serious consideration of the house. While the Church Establishment of Ireland remained on its present footing there could be no peace or happiness for Ireland. Some people made a great outcry about the danger of any proposals touching alterations in that Establishment: but their alarms, as Sir William Temple had well observed, were rather for the wealth, and power, and dignities of the Church Establishment, than for the safety of the Church. If the number or revenue of the existing Irish bishops and clergy of the existing Irish establishment were too large for the means, the circumstances, or the prosperity of the people, surely the system ought immediately to be revised. If the army, the navy, or any other public establishment, were too large, the house would consent to reduce them. Why distinguish in the case of the church? They talked of church property, but the only right in property was derived from the law, and the power which conferred upon the church the possessions it held, could, if the public good required it, take it away. This principle had been acted upon at the Reformation, and experience had proved its wisdom and usefulness. He denied, however, that a churchman had the same interest in the benefice he held as any other individual might have in a freehold estate which he

had bought; because there was no right either of sale during his life, or disposition after his death, in a clergyman; and any provision which the legislature might make for the disposition of ecclesiastical benefices might be enforced with perfect justice, and he thought with great propriety, after the death of the incumbents. The original institution of these benefices had been with a view to provide for the education of the poor; but this end had not been accomplished. In Ireland, the number of Catholics, who could not of course, avail themselves of the advantages of education by Protestant clergymen, was nearly seven millions. The numbers of the Catholic population of Ireland, compared with the Protestants, were as seven to one; the one-seventh being composed of persons belonging to the Established Church and to dissenting sects. For this small proportion composing the Established Church, at the most one fourteenth of the whole people, the clergymen of various sorts exceeded 500. The amount of property in their hands was, as he thought he could convince the house, in every case too large. The bishoprics, the value of which might be accurately estimated as well from the papers on the table of the house as from the statistical account of Ireland published by Mr. Wakefield, were of an extent and value which no man could pretend to justify. That of Armagh appeared to contain 63,270 acres, and was of the annual value of 51,880*l.*; that of Clogher, 27,070 acres, produced annually 31,589*l.* What he would propose to do with these overgrown sees was what had been successfully practised before. It had at a former period been found expedient in Ireland to reduce the numbers of the clergy by uniting bishoprics, and parishes. He saw, therefore, no reason why the numbers should not again be doubled up (laughter). He thought that four bishoprics, instead of twenty-two, would be enough to conduct the spiritual affairs of the Protestants in Ireland. He thought that every man—he was sure every reasonable man—upon considering the amount of property held by the various bishops of Ireland, would agree with him that it was much too large to be left in the hands of any individuals performing such functions as they were called upon to perform. He did not mean to reflect personally upon any of the bishops; because he dared to say if he were one of them, he should be as glad as they were to retain the possession of their large incomes (a laugh). Still he was sure that one-hundredth part of the sums now paid would be an ample remuneration for as many bishops as were really necessary. A speech had been delivered by the Bishop of Limerick, in the House of Lords, which as the *rt. rev.* prelate had chosen to publish and to send into the world, he had a right to remark upon. The language of the bishop, who said that he (Mr. Hume) had used in his statement to the house last year language better suited for the table of the convicted felon on Ludgate-hill than for a member of Parliament, was, at least, somewhat harsh and angry. It must be admitted that there were angustiae terms, and although they came from a bishop were rather savouring of abuse (a laugh). But he had a graver objection against the bishop—that of his statements being untrue. The bishop charged him with having said there were 531 non-residents; and a learned gent. (Mr. Plunkett) said in the house, on the authority of the bishop, that there

were only from twenty to thirty. This was, however, at the best, only an evasion of the fact, because he (Mr. Hume) called non-residents all clergymen who did not actually reside upon the livings they held; but the bishops, who looked at these things in a different point of view, thought that although a clergyman was not resident, yet if he had any other duties to perform, this circumstance excused his absence, and made him, as he called it, virtually resident. He was, however, prepared to substantiate his own statement, and as far as regarded the dioceses of Limerick, and of Ardferri and Aghadoe, to which alone it was necessary on this occasion to allude, he would read an extract from the parliamentary papers of 1824, by which it appeared that in Limerick there were 51 benefices and incumbents, of whom there were 21 non-residents; in Ardferri and Aghadoe, 44 benefices and incumbents, of whom there were 22 non-residents; making in the whole 95 benefices, of the incumbents of which 43 were non-residents, including 9 dignitaries of the see. But yet the Bishop of Limerick, in the pointed speech he had quoted, avowed, of his own knowledge, “that in his own diocese there was not one clergyman who (though non-resident) wantonly deserts his appointed sphere of duty.” In the bishop’s sense, indeed, there were few non-resident clergy in Ireland, for he explained further, that “no clergyman is accounted a non-resident who is employed in parochial duties in any part of the country” so that if an incumbent had three or ten benefices, and discharged the duties of one of them, he was not to be considered a non-resident on the other two or nine. His statement had also encountered another *rt. rev.* opponent, in the person of the Archbishop of Cashel, who, in his charge to his diocese in 1824, did not hesitate to contradict that statement as far as related to his see. He said that in Waterford every incumbent was resident, and that in Limerick only six incumbents could be questioned as to non-residence;—meaning, perhaps, to give to non-residence the same extensive explanation as the Bishop of Limerick. But the fact appeared to be, by the Parliamentary returns of the same year, that in Waterford there were 10 benefices and incumbents, of whom there were 3 non-residents; and in Limerick, 42 benefices and incumbents, of whom there were 20 non-residents; making in the total 52 incumbents, of whom 23 were absent. The reasons given for the non-residence of some of these persons were singular enough. One was supposed by the bishops to be reasonably exempt from residing on his living, because he was a surrogate elsewhere, and had the duties of that office to perform; another, because he resided at his deanery in Dublin, and so on. He should now dismiss this subject, to which he had only been induced to allude, because the Bishop of Limerick did not hesitate to charge him with having made incorrect statements, and said that if they were occasioned by the misrepresentations of others, he should regret them, but that if they were wilfully put forward, then he should find it painful to apply to them the epithet which they would deserve. This was a specimen of what was meant by the common expression of “telling a man in a genteel way that he lied.” If it were so, he must say that it came with a peculiarly ill grace from a right *rev.* person whose back was full of lies. He might excuse his misstatements in any large

nious way he would—he might provide a salvo for his conscience by means of some new explanation of what non-residence meant, but still he would fail to persuade persons, who called things by their right names that residence meant any thing but an incumbent's living upon his benefice, and among that flock the care of whose souls he was intrusted with. He proceeded to observe, that the conduct of the clergy in collecting their tithes, was very oppressive. He had in his possession warrants which had been issued to levy a tithe of twopence-halfpenny. In the county of Clare there had been 153 trials for the recovery of tithes within a limited period, in Kilkenny 712, in Limerick 823, in Tipperary 819, in Waterford 347, and in Tyrone 317. When cases of this description came on in the Consistorial Courts, how could justice be expected from a court which might be considered as a party? Indeed he was desirous of calling attention to the constitution of Consistorial Courts. It was of the first importance that the judges who had to decide upon tithe causes should be impartial, but how could that be, when clergymen were allowed to act as judges? It was, in his opinion, extremely impolitic to permit clergymen to exercise any judicial functions. By doing so, they only brought themselves into contempt. A bench where a majority of clergymen presided was commonly ridiculed as a black bench. It was quite preposterous that the present ecclesiastical system, comprehending an establishment of 22 bishops, and 1200 or 1300 livings, should subsist in a country where the proportion of Catholics to Protestants was, in many parishes, 100 to 1, and in some not a single Protestant was to be found. Suppose the Protestants were to disappear altogether from the face of Ireland,—a supposition, which was far from improbable,—he would then put it to his Majesty's Government, whether they would in that case be prepared to continue the present system? Such a proceeding, he apprehended, would be too preposterous to be tolerated by that house, or by the country. The Report of the Commissioners appointed to inquire into the state of education in Ireland, developed a tissue of disgraceful proceedings which called loudly for the interference of that house. The Bishops, who took an oath, on their institution, to support the Parochial Schools, had entirely neglected their duties. If, as he contended, the Church of Ireland answered no one beneficial purpose, it became the duty of that house to alter the existing system. He concluded by moving the following resolutions:—"That the property now in the possession of the Established Church in Ireland is public property, under the control of the legislature, and applicable to such purposes as in its wisdom it may deem beneficial for the best interests of religion, and of the community at large, due regard being had to the rights of every person in the actual enjoyment of any part of such property." "That this house will early in the next session inquire whether the establishment of the Church of Ireland be not greater than is commensurate with its services, both with regard to the number of persons employed, and the income which they receive."

Mr. Canning said, that however much he might be inclined to find fault with the hon. member for the tone of his speech, and the proposition which he had brought forward, he could not say of him that he had gone about his business in a

covert way. He must do the hon. member the justice to say, that he had plainly and freely stated the object he had in view, which had been imputed to others on former occasions, as the necessary result of their arguments, but which he did not recollect any other individual to have boldly avowed and placed in the front of the battle. Before he submitted to the house a very few observations, he would request the clerk to read the article of the act of Union which related to the Church Establishment in Ireland. (The clerk then read the fifth article of the act of Union, which declared that the Churches of England and Ireland should be united in one Protestant episcopalian church, to be subject to the same laws, and that arrangement should be taken to be a fundamental part of the Union). Mr. Canning resumed.—It was an advantage that in coming to the consideration of the question, the house was placed in no circumstances of uncertainty; the sense of the legislature on the subject was not to be gathered from statutes, the construction of which might be doubtful, or which might be ineffective from disuse; but they had a clear authority, only 25 years old, to compare with the hon. member's resolution, and to help them in coming to a decision, as to whether it was possible to pass that resolution consistently with the law laid down in that statute, and, what was more, consistently with the compact which that statute was intended to record and enforce. The compact, made at the Union, might be broken; but until that was done, it became Parliament to act with good faith on their part. Parliament could not, without a violation, which would lead to the apprehension of violations of all kinds, concur in the resolution of the hon. member, which went to put out of the purview of the settlement made at the Union the whole of the property of the Church of Ireland, and to declare that it was a thing with which Parliament had a right to deal as it thought fit. The difficulty of the hon. mover's case was, that it went directly against all that hitherto had been considered as established. If the house should agree to the hon. member's resolution, there was nothing to prevent them from seizing upon the property of corporations. Then, again, why was the house to stop with the tithes of the Church? Why not, also, possess themselves of the lay tithes (hear, hear)? In short, the proposition of the hon. member was so monstrous, so likely to lead to the most alarming consequences, that he was sure it was quite impossible that the house could for a moment hesitate as to the course they should pursue regarding it. The hon. member had in the course of his speech remarked that the session had been wasted in fruitless attempts to carry the Catholic question. The greatest enemy of that question could not have devised a sarer means of procuring its defeat than by causing to be inserted on the journals of that house a resolution denouncing the spoliation of the Protestant church property next session (hear, hear). It was the fear of such a proceeding which originated much of the opposition to the Catholic claims. He was therefore rather pleased that the hon. gent. had afforded the house an opportunity of showing how they would meet any such proposition. He was confident that the vote to which they were about to come would tranquillize any fears which might be entertained on the subject. He had never heard a principle so base propounded for consid-

ration — that house; and he believed that the hon. member would find few supporters, either in that house, or in the country (hear, hear).

Sir F. Burdett said, that the rt. hon. gent. had resorted to that species of rhetoric which was least effective in dealing with facts; but he had not made out the proposition which he had laboured to establish; namely, that there was any thing in the proposition of his hon. friend at variance with the articles of Union. It was to the tithes, and not to the religion, that the rt. hon. gent. should have addressed his argument; not one word of which was to be found in the articles of Union (hear, hear). For the Union itself, every body knew what it had been — a gross cheat, a scandalous piece of corruption, supported by unprincipled violence — one parliament selling the country — another parliament buying it; and the wrong upheld, and made good, by the assistance of military power. But, take the Union Act to have been a fair measure, still it was not a law of the Medes or of the Persians; and what reason was there that it should not be revised, if such a course were desirable for the advantage of the public? Such a principle was repugnant to all common sense. He denied that the discussion of this question had any connexion with the consideration of the Catholic claims. The Catholics of Ireland, on the contrary, were content to submit to this most grievous inconvenience. By the opposition that was made to every attempt at inquiry, the Church of Ireland was placed in a very awkward predicament, for it was held forth as the obstacle to every improvement in the condition of the Irish people. If the Church were not held up as the obstacle to doing justice to the Irish, it would stand on a more secure foundation, and incur less risk of being destroyed. With the first proposition of his hon. friend, he entirely agreed; but he thought it perfectly harmless. The same thing might, with equal propriety, be said of private property; both were equally sacred, and ought equally to be regulated by the legislature for the public good. He saw no harm, therefore, no danger, and no difficulty, in putting the first resolution on record. As to the second resolution, he thought it of much more importance. There was a necessity for investigating the state of the Irish Church, and he did not know that after such an investigation, that Church would not appear to more advantage than at present, though the rt. hon. gent. seemed to think it impossible that inquiry could be beneficial to it, and he seemed to despair of its success were it once subjected to the test of examination. He gave no opinion on the materials of that inquiry; he would not say one word about the details, but he protested against the mode in which the question was met, and in which all inquiry was stopped by a reference to the Act of Union. He meant to support the motion of his hon. friend.

Mr. Peel differed from the hon. bart. as to his construction of the articles of the Union. There were also other articles besides the one which his rt. hon. friend had read, which recognized the number of bishops belonging to the Church. By the Act of Parliament for regulating the number of Irish peers, which was incorporated with the Act of Union, it was settled that the bishops were to sit in the house successively, four at a time, and the order of succession was regularly pointed out through all the number of bishops who at present formed

part of the Irish Church establishment. Thus the Church was recognised as it now existed. The hon. bart. had used as an argument for allowing the first resolution to be put on the journals, that the same thing might be said of private property. But did the hon. bart. really mean that private property might be taken by the legislature, and dealt with for the public good? If the hon. bart. did not mean this, what purpose would it answer to put an abstract proposition, which was never to be carried into effect, on the journals?

Mr. Brougham did not mean to enter into the general question, but he wished to say a few words, both to guard himself from its being supposed that he differed from his hon. friend, and to show how much beyond accuracy those who maintained that the church property was inviolable, had pushed their principle, and to show with what limitations that principle should be adopted. As to what had been stated by the hon. bart. that the legislature might make the same declaration as to private property which it was proposed to make as to church property, he fully agreed. The legislature had the power of disposing even of private property when it was necessary for the safety of the state. But God forbid that he should be found contending that the Church had the same power over its property that individuals had over theirs. He admitted the existence of a Church known to the law as a corporate body having rights, and to which wrongs might be done which would be both unjust and inexpedient. But he contended that both the mode of establishing church property and the mode of dealing with it, were very different both in argument and in practice — and this the house would recollect had been a ways recognized — from the mode of establishing and dealing with private property. He would first say that the property of the Church must be regarded, in the strict sense of the word, as public property, if the Church were considered not as to the individuals composing it, but as a large body of persons. Another material practical difference between church property and private property was, that the private individual might do what he liked with his property. He carried it about with him; no body had any control over it, except the legislature, as stated by the hon. bart., and of this he had no right to complain, for he gave his assent, or was supposed to give his assent to its measures. His private property was inseparably attached to his person: he might transfer it where he pleased, he might sell it, burn it, break it up into parcels, in short do with it whatever he liked, without any control, except that imposed by settlements, and this was the act of a person disposing of property which he held in fee. He might bequeath his property by will, or he might allow it to go to his eldest son, to his nearest of blood, or to any body he pleased. But to whom, he would ask, could the parson leave his property — to the next succeeding parson, a person whom he probably never saw, and who might be his mortal enemy? He had no power to dispose of this property; it must go to his successor. The control, therefore, which the Church and which individuals had over their property, could not be called the same. The next point he would mention should be the consequences of the legislature meddling with private property, and with the property of the Church. By taking away the property of an individual,

he was deprived of his means of providing for his family and children. But if the legislature were to say to the priest of some parish, containing 500 Catholics and one Protestant, "After you are dead there shall be no longer any parson in this parish," who would be injured by this? A parson who never enjoyed it. Was there in this case the same injury inflicted as in the other? In the one case you deprive a wife and children of the means of subsistence, they must starve after the father's death; but in the other there is nobody to suffer but an unknown, and perhaps unborn parson. There was no analogy whatever between the two cases. The last difference he would mention, and it was an important one, was, that private property was held on no conditions whatever, there was no duty imposed on annexed to the enjoyment of the right; but the Church consisted of 2,000 office-bearers clothed with a sacred character; indeed, extremely useful to the state—a body of men set apart for a particular service, but who received their property on condition of performing those services, fulfilling these duties, and who might be stipendiaries, or who might be paid by salaries, instead of tithes and land, as they were in most of the countries of Europe. But it had suited the policy of this country to pay them by tithes. As well might the pay of the army, or the property of the church, be called inviolable and private property. The army was a corporate body, larger, indeed, and more numerous than he wished it to be—it was a great public body—it had Chelsea Hospital, and the navy had Greenwich Hospital, richly endowed with land, for the use of the navy under certain conditions; but was it ever supposed that either of those bodies could regard their pay or the property of these hospitals as their's, and to be held inviolably sacred? In the opinion that the property of the Church was conferred by the state for the performance of certain services, and that the legislature might deal with it, when it was necessary, for the benefit both of the church and the state, he agreed with the hon. member for Westminster. After shewing that church property might be disposed of for the benefit of the country, he would proceed to inquire into what the legislature had done with regard to church property. Without going back to the period of the reformation—without adverting to the appropriation of the property of monasteries—without even saying any thing of the abolition of tithes in Scotland; where tithes had formerly existed till they were abolished by the Act of Charles the First, the Martyr, the seed of the church, an Act for which he was more thanked in Scotland than for any thing he had done in England, for here he had done many things for which he had suffered, and, many people thought, very justly. But, passing by all these remote times and examples, he would ask, what had been done with church property in Ireland? Had the house forgotten that the Parliament of Ireland passed an act depriving the Church of Ireland of all the title of esilement, and that this act was incorporated with the Union? By this act, the Church was deprived of all the tithes from grass land, to the benefit of the more opulent classes, and to the injury of the poorer classes. When the rt. hon. Sec. pointed out the circumstances which led to the Union, he should not have forgotten, that unless this spoliation of the Irish Church had been incorpo-

rated with the Union, it would not have been carried. He was surprised that the rt. hon. Sec. should refer to the Union for the inviolability of church property, when this spoliation was recorded in that Union, and when he paid so little regard to the promises held forth at the Union, that the Catholics should enjoy the same privileges as the rest of their countrymen, and that Catholic Emancipation should be granted. Were not these pledges given to the Catholics of Ireland by the Marquis Cornwallis, a nobleman notorious for good faith—pledges in which the then Sec. for Ireland concurred? It was true they were given in private, but being so given to leading public characters, they were as binding as any public declarations. And yet these pledges, without which the Union could never have been accomplished, remained for the last twenty-five years unredemmed (hear, hear). But what said the very article of Union to which the rt. hon. Sec. (Canning) adverted, and on which he laid such particular stress? It was a provision to maintain the faith and discipline of the Protestant Establishment of Ireland. The faith, he trusted, the Established Church would continue to maintain as steadfastly as they did their wealth (a laugh). But what had faith to do with money? Much had been said of the compact of the Union between Great Britain and Ireland, and its inviolability. Yet, who that looked at the previous Union between Scotland and England, but must be convinced that it was incidental to such treaties or engagements to be subjected to the future consideration of the legislature? In the Scottish compact, though many of the provisions were left open to the future deliberation of the United Parliament, yet there was one on which, from many considerations of local circumstances, from feudal attachments, from personal feelings, the compact of Union was precise and strict—it was the institution of heritable jurisdictions, which, though guarded by such barriers from interference, was, forty years after, abolished by the enactment of the legislature—abolished, because they were felt to be more oppressive to the vassal than beneficial to the lord. The language of the statute of repeal was, that they were worse than useless—that they were pernicious. He was free to admit, that with regard to those religious feelings, which were always intermixed with respect to the church property, he would proceed with delicacy; but though that might afford an argument against any precipitate course, it offered none against an inquiry which merely sought for information. Taking the state of the Church in Ireland—viewing the state of the population, who, though obliged to support it, received no benefit from it—in a statesmanlike view, it was most monstrous to say that such a system should never undergo legislative revision. As to the claims of the inviolability of the property, he would ask, was any man so romantic as to expect that any arrangement as to the question of tithes would satisfy every individual clergyman? And yet if all were not satisfied, it was a spoliation of property as to the individual, as much as if the whole were discontinued. They were all agreed that that would be a most extravagant length to which any opposition to the relief of the tithe system could be pushed. He had seen some estimates of the value of the glebe lands of Ireland. Some were too professedly accurate to be correct; but he had

seen one given in a pamphlet under the mongrel title of *Philo-Justitia*, which stated that property to be 160,000*l.* a year, independently of the renewal of leases. That estimate he thought to be correct. Was it not natural, therefore, to require information whether or not some future arrangement might not be made by Parliament calculated to secure the stability of the Church, by removing the very natural dislike which the great population of Ireland must feel towards such an establishment? That establishment stood on very different grounds from the church of this country. In this country, down to the reign of Elizabeth, the tithes were applied to four different purposes—the remuneration of the bishop; the allowance to the parson; the repairs of the church; and the support of the poor (hear, hear). In an evil hour the statute of Elizabeth, by throwing on the people the whole relief of the poor, had interfered with that distribution. But he would appeal, as a lawyer, to his learned friend, the Solicitor-General, whether by a variety of statutes, tithes were not directly made applicable *ad sustentationem pauperum*. He merely threw out these views of the subject as proper questions to be hereafter considered. He should recommend his hon. friend to withdraw his first resolution, which, though true, did not bear on the question, and to take the sense of the house on the second (hear, hear).

The house then divided on the second resolution—Ayes, 37—Noes 126—Majority 89.

### *Charter Schools.*

THURSDAY, JAN. 9.—Sir John Newport said, that this question regarded the propriety of taking some legal measure against a set of men who had in the discharge of their functions, done every thing that was unjust, oppressive, and unwarrantable. Upon the management of those institutions which he was going to advert to, it had been his fate now, for twenty-one years past, to address the house on a variety of occasions. In every case wherein he had exposed instances of the most gross mismanagement, and of the most flagrant perversions of the public bounty, as connected with the charter-schools of Ireland, he had been combated by gentlemen on the other side, either with evasive promises or direct denials. In the meanwhile the existence of the evils complained of was perfectly notorious; and some idea of their magnitude might be formed when he stated, that since the Union the public had at different times bestowed upon the support of the charter-schools of Ireland, sums of money to the incredible amount of nearly 600,000*l.* (hear, hear). When the house adverted to the reports which had been, from time to time, made to them on this subject, how would hon. gentls. on the other side be able to make out those assertions of immaculate purity and honest management which they had so loudly advanced in favour of those who immediately presided over those charter-schools? Unfortunately, it was no unusual thing for Parliament to hear similar language about such matters. Many years ago, even when the attention of the philanthropic Howard, whose diffusive benevolence extended to the whole of Europe, and indeed of the world, was directed to the charter-schools of Ireland, promises of amendment were held out, and the best hopes were excited. But what was the result of those promises?

The schools in question, so far from being ameliorated, were deteriorated. In 1806, it appeared by one of the reports, that the charter-schools of Ireland were discovered to be, as they were in the time of Mr. Howard, exceedingly ineffective for almost all the excellent purposes of their institution. These schools were originally founded and endowed with lands. In consequence of a petition from the archbishop, bishops, and many of the dignified clergy, and most distinguished members of the laity of Ireland to George II. the first of these schools was founded in 1734; and seven others were established in the three following years. The plan of founding these institutions carried with it so powerful a recommendation to the patronage of the public, that one individual, a Dutchman, was said to have subscribed as much as 46,000*l.* three per cents. towards their support; another person about 20,000*l.*, and several other private characters very large sums; so that the rental of these schools, in consequence, now amounted to upwards of 7000*l.* per annum. In 1808, a report was made to Parliament, signed by the archbishop of Dublin and other distinguished personages, who had visited these schools, on the subject. In 1817, Mr. Thackeray was appointed to examine into and report upon their condition; and afterwards Mr. Lee. The latter gentleman contrasted the condition of the children at the schools on the foundation of Erasmus Smith, and of the Association for discountenancing Vice, &c. with that of the children at the charter-schools. The former children, though clothed in rags, and fed on the scanty fare of the Irish cabin, were vastly superior in health, vivacity, and intelligence to the abundantly fed, well clad, well lodged children at the charter-schools. With regard to the school at Sligo, the report stated that the commissioners found that the master was a man of violent temper, whose habitual practice was to seize the boys by the throat when he punished them, and strike them over the head and eyes with a whip or with his fist, whilst his passion lasted. On Sundays they were employed in writing specimens of penmanship to be laid before the Committee of Fifteen, in order that their time during the week might be devoted to the profit of the master, in weaving. The boys were deterred from complaining to the Committee by the dread of still greater enormities, as one little boy had been severely punished for having done so. The report from Stradbally stated, that on the first inquiries of the commissioners the boys answered that they were treated very well, although examined separately, and in the absence of any member of the establishment. On the second visit they at first returned the same answer; but being assured of protection, if they had any complaints to offer, they all came forward and said that they were very cruelly treated, but that they were afraid to speak; for that having once complained to the Catechist, the boys who had done so had been "half killed" in consequence. On being asked why they had not stated this on the first visit of the commissioners, they said that they had taken them for "common visitors." It was proved that about three weeks before the first visit, one boy had been flogged with a leather strap nine times in one day, his clothes being taken down each time, and that he received in the whole nearly 100 lashes; all for "a sum in long division." On the same day another boy

received 67 lashes, on a similar account; and another boy, only 13 years old, had received 17 stripes with a rope. The day before the second visit, eight boys had been so severely punished that their persons were found by one of the commissioners in a shocking state of laceration and contusion. The offence with regard to two of the boys, was "looking at two police-men playing at ball in the Boy's Ball-alley. The cruel treatment of the other six remained unexplained, unless by the suggestion of the master, who stated, that "he believed the usher might have been actuated in the punishment by his feelings as to what the boys might have said of him on the former visit of the commissioners." These severe punishments were all inflicted by the usher in the absence of the master, and without his knowledge. His absence was excused latterly, by his ill-health; but a better reason seemed to be, that he was fully occupied in the management of three farms, containing together 130 acres, of which only 29 belonged to the society. One farm of nearly 60 acres was two miles and a half distant from the school, and the boys were occasionally taken there to work. The commissioners were particularly struck with the appearance of sullenness and terror which marked the deportment of the children of this school, contrasted with the free and lively air which generally characterized those who are to be seen in day schools. What was said regarding the proficiency of the boys in education was extremely curious and lamentable:—"On examining the boys, they were found able to repeat the Catechism and the answers to it correctly, but attached little or no meaning to the words they repeated. The two head classes consisted of twenty boys, of 13, 14, and 15 years of age; 17 of them declared that they had never heard of St. Paul, and half of them had no idea whether the word 'Europe,' meant a man, a place, or a thing (a laugh); and only three boys in the school could name the four quarters of the world. Two boys only appeared ever to have heard of Job, and only one could give any account of his history." The school of Castledermot also deserved notice. "In that school," said the commissioners, "we found two boys had recently been severely punished by the master. They stated that they had been set to work in the garden, and having had but little breakfast, they were hungry, and had eaten a raw cabbage: that the master, who appeared to be a man of violent passions, caught them, and flogged them for this offence, severely; that one of them received 16 stripes in the usual manner, and six blows with a stick on the head, which continued cut and bruised when the school was visited by the commissioners. The other boy had eloped in consequence of the beating." The house would observe, that there was left by the late Bishop Pocock, a bequest for the establishment of a weaving school; and the building a place, to be attached to it, for the purpose of affording the scholars religious instruction. Now, by the last reports it appeared, that out of 21 scholars in this establishment, there were only 13 who could read; only six copy-books among the whole number of boys; that the master could not teach, and that there was no usher (hear, hear, and a laugh). Several of these scholars, however, were grown up young men. This was at Newport, in the vicinity of which there was such anxiety for instruction among the peasantry, that at a cabin only two miles distant,

96 of their children met constantly to be taught. At another place, a young man had taken a stable for the purpose of teaching the poor, and so crowded was the floor of this place, that the children were absolutely obliged to betake themselves to the manger (a laugh). At the charter school of Clonmel, there were only two scholars and no books; and for a master, one was a cripple, but who had a salary of 50l. per annum, and 24 acres of land, at a rental of 25s. per acre—the very next adjoining land, letting commonly at the time of the report at 8 guineas, and now at 6 guineas per acre. Not only were the objects of these charities perverted; but the secretary in effect prevented all complaints from reaching the committee, by refusing to present memorials from complainants. There was an understanding, indeed, between the registrar and the masters of these schools, who made him presents, and advanced monies without interest. In the observations which he had addressed to the house, he did not mean to include all the parochial schools of Ireland, nor to impute blame to the whole parochial clergy of Ireland, but to those who had the superintendence of the charter-schools. He concluded by moving, "That a humble address be presented to his Majesty, expressive of the deep sense of regret and indignation with which the house had perused the details of the unwarrantable cruelties practised on the children in the several charter-schools of Ireland, as contained in the reports of the commissioners of education; and praying that his Majesty would be graciously pleased to direct his law officers in that part of the United Kingdom to institute criminal prosecutions against the abettors of those dreadful outrages, as far as they might be amenable to the laws for the same (hear, hear)."

Mr. Goulburn said, there was not a sentiment of regret or detestation, with respect to the acts described, which was to be found either in the report, or in the speech of the rt. hon. bart. in which he did not entirely participate. But the question was, whether it would not be better to leave the adoption of that plan which would be most effectual to correct the evils complained of to those whose official duty it was to inquire into them; and if they neglected that sacred duty, then to call for the authority of that house to apply a proper remedy. The report had only been before the house five or six days. No opportunity, therefore, had been afforded to examine the documents on which it was founded, nor to communicate with the Government of Ireland as to the mode which that Government might deem most advisable to adopt. In every page of the report reference was made to the appendix, and the commissioners distinctly stated that the real state of the schools could not be understood, except by a careful perusal of the documents contained in that appendix. He recommended, therefore, as an individual member of Parliament, that they ought to wait until those documents were forthcoming. If, however, there appeared to be a general feeling in the house, that this resolution should be agreed to, before the Government took any step for the purpose of bringing to punishment, as far as they were amenable to law, the individuals accused, he would not raise his voice against it, although he thought it better to leave the subject with Government. The defects of the system on which the charter-schools of Ireland were conducted were so



clearly pointed out by this report, that he had no doubt that the noble lord who was at the head of the Government of Ireland, and the members of this commission, would as early as possible attend to and correct them; care being taken to preserve the interests of the unhappy individuals placed in those schools, in the alternative of their being new-modelled or wholly given up.

Mr. S. Rice thought it was impossible but that a general feeling must exist in favour of the motion. If the motion went to criminate a particular individual—the schoolmaster of Sligo, or of any other place—that would form some reason for saying “Let us wait for the evidence.” But all the house were called on to confirm by their vote was, that a *prima facie* case had been made out, on competent authority, which demanded the adoption of such measures as the law advisers of the Crown might deem necessary, under all the circumstances that had been brought to view. The document before the house was sufficient for that purpose—not for the purpose of deciding on the conduct of any man, or set of men, but for the purpose of calling for the adoption of legal proceedings. He was not willing to leave this question to the executive government. The commission itself was a measure forced from the executive government by the voice of that house. This charter-school system was a specimen of the exclusive Protestant system of Ireland; and therefore, on that point, it was more proper that it should be considered by the house and the public, than it even was with reference to the individuals who were accused on this occasion. The charter-school system had constantly been recommended, both before and since the Union, as essentially Protestant, as absolutely necessary for the support of the Protestant Church in Ireland. In the year 1763, an address of the Lord Lieutenant set forth “that the charter-schools and provincial nurseries tended greatly to promote industry and the Protestant religion in Ireland;” and since the Union, those schools had been defended on the same principle; and when gentlemen got up and said a word against them, they were accused with being hostile to the Church of Ireland. The truth was, that those schools were nothing more than traps for Roman Catholics. It was by their operation that an attempt was made to separate the father and child, and they had led to the grossest abuses. When the *rt. hon. gent.* called on them to take no steps on this occasion, was he aware that a report had been made in 1787, with respect to those schools, by Mr. Howard, and that the cases then adduced were as strong as those now brought forward? In consequence of that report, the vote for charter-schools had been diminished; but steps had not been taken against those who had misconducted themselves; and, until that was done, justice would not be satisfied (hear, hear). In 1817, Mr. Thackeray made a report on this subject, and the cases then disclosed were more atrocious than those now brought forward. The house, however, did not interfere—the general incorporation did not interfere—and the system went on as usual. No less than 1,000,000*l.* had been squandered on these schools, of which 600,000*l.* had been voted since the Union; a sum, which, if properly applied, would have educated the whole people of Ireland. This immense waste was

sanctioned for the purpose of keeping up a exclusive system of monopoly and bigotry (hear, hear). At the proper time he would move, that any sum which might be granted, should be placed in the hands of Government, and not in those of the governors of the charter-schools.

Mr. Peel denied that the commission had been forced upon the Government by the voice of that house. He had himself moved for it, and every individual composing it had been selected on account of his fitness for the office. One of these gentlemen, Mr. Glascock, he never saw, but he had signalized himself by the strict performance of his duties on a commission in Scotland; and he was appointed in consequence. It was thought desirable that there should be a Roman Catholic on the commission, and therefore Mr. Blake, a gentleman of abilities, was appointed. Mr. Grant, another member, he had never seen in his life; and as for his hon. friend, Mr. F. Lewis, he had, by his exertions, in the course of an investigation, relative to abuses in the revenue of Ireland, proved that he was calculated for this situation. Two inquiries presented themselves on this occasion: one was, the policy of continuing the present system of charter-schools; the other related to the course to be pursued in punishing those persons who were concerned in the abuses noticed in the report. Now he had no hesitation in saying, from the facts stated in the report, and from the recorded opinion of the commissioners, that this system did not admit of correction; and that the legislature ought, as soon as possible, to extinguish it altogether (hear, hear). Not two days had elapsed, after the report was received, before an instruction was sent to those schools, not to admit a single additional member, but to reduce the establishments as much as possible. The directions thus given were, he conceived, a practical condemnation of the system. Such a gradual and progressive reduction would be made in the annual votes for the children, as would, at no remote period, put an end entirely to this gratuitous system of education in charter-schools. That ministers were not wrong in pursuing the system up to this point might be inferred from the fact, that the commission appointed, in 1806, made a report, in which those schools were favourably spoken of. If prosecutions must follow the present report, he would not hazard a comment with respect to those whose conduct must be investigated in another place. But if he abstained from doing so, it was not because he did not participate in the strong feelings which were manifested against those who were said to have behaved so unworthily. If it were judicially proved that such cruelties were practised as had been described, the dismissal of the guilty individual would not be sufficient punishment. They ought to be punished, not vindictively, but in such a manner as would deter others from committing similar offences in future. He had not the least idea of screening or palliating those who had been guilty of such conduct, and he would at once vote for the motion, if he thought that his opposition would be viewed as indicating a desire to save those persons from punishment. What, however, he would contend for was, that if they were to be sent to trial, they should, not merely for their own sakes, but for the sake of justice, be sent to a perfectly fair trial. To

be tried at the instance of the House of Commons was generally considered in itself a disadvantage; but it became infinitely worse, if expressions of condemnation were mixed up with the address to the Crown. He hoped the rt. hon. bart. would leave out those words of his resolution, which assumed the guilt of the parties. If he did not, he should be obliged to oppose it on a principle of justice.

Sir F. Burdett merely rose to say, that he was perfectly satisfied with the manner in which the rt. hon. Sec. (Peel) had treated the question.

Mr. F. Lewis thought the house ought not hastily to decide upon the merits or demerits of these individuals. The allegations contained in the report on which they were expected to give a settled opinion at that moment, were founded on thirty documents, not one of which had been laid before the house.

Mr. J. P. Grant said, that in order to do justice, it was not sufficient that the parties should have been noticed as they had been by the Board of Commissioners, but it was necessary that they should be visited with more severe punishment, if the facts set forth in the report were true. It appeared to him surprising that the horrors thus brought to light had remained so long unnoticed. In 1787, a report was made from a committee, setting forth certain malpractices which prevailed in the charter-schools. Under these circumstances, he thought it incumbent on the house to express their opinions on the subject, not only as it regarded the schoolmasters, but also as it regarded those persons whose business it was to superintend the schools.

Mr. C. Grant said, that he had always entertained a strong opinion that the system of the charter-schools must ultimately work out its own condemnation. He did not certainly suppose that such enormities as were detailed in the report were in existence, because the system was so strictly under the superintendence of the clergy and the most eminent men in Ireland. But there were evils inherent in the system, such as those of separation from parent and child, and proselytism under suspicious circumstances. At length, however, there was but one opinion entertained respecting the merits of the system. That which had so long been considered the bulwark of the Protestant Establishment, was now acknowledged to be the greatest stigma which attached to it. He was not sorry for that, because he was of opinion, that the more the Protestant religion was relieved from such incumbrances, the better it would be for it.

Mr. J. Smith thought that the schoolmasters, bad as they were, were not the most guilty persons; those who had been overlooked—the inspectors of the schools, deserved that character.

Mr. F. Lewis said, that the reason why the inspectors of the schools remained in ignorance of the proceedings brought to light by the committee was, that they were deceived by the false statements of the masters of the schools.

The resolution, praying merely "that prosecutions might be instituted by the law officers of the Crown, against those persons designated in the report, as having been guilty of certain cruelties, as far as they were amenable to the laws," was then put, and agreed to without a division.

## *Justices of the Peace.*

TUESDAY, FEB. 22.—Sir H. Parnell moved for leave to bring in a bill to regulate the office of Justice of Peace in Ireland. He did not intend to enter on this occasion into any detail as to the conduct of the magistracy of that country, but he thought that some measure was necessary to follow up and enforce the excellent regulations respecting the magistrates which had been introduced by the Marquis Wellesley. One of the great evils which that noble lord had tried to remedy was, that of magistrates acting in their private houses, instead of holding courts of petty sessions—a practice from which the most injurious consequences had proceeded. Independently of this, he thought it necessary that the number of magistrates should be restricted, so as to get rid of many at present in the commission who were unfit for that situation. He was anxious that the leave for bringing in the bill might be a sort of pledge that something further should be done on this subject; but what the nature of the precise remedy should be, he would leave in the hands of the committee appointed to bring in the bill.

Mr. Goulburn would not oppose the motion, but he begged that his assent on this occasion might not be considered as a pledge to support the measure when introduced. This was a subject which he could assure the house had been under the consideration of the Irish government. Persons had been sent into the different counties with instructions to make inquiries on this subject. Their reports had been submitted to the judges, and the reason why no measure had been introduced upon them was, that it was not considered expedient at the present time. But he could assure the house, that where any cases had occurred which called for the interference of the Lord Chancellor of Ireland, he had discharged the difficult and invidious task in a manner likely to be highly beneficial to the interests of justice.

Sir J. Newport begged to suggest in the proposed bill the substitution of Lieutenants and Deputy-Lieutenants, instead of the Governors and Sub-Governors of counties in Ireland. He wished to see the plan assimilated to that of England, where the Lords Lieutenants of counties were answerable to the Home Office. In Ireland the power was subdivided among a variety of hands without having any regular responsibility.

Mr. L. Foster thought that if the proposed bill sanctioned the introduction of a paid officer as an assistant to the magistrates at petty sessions, that officer not being a magistrate, it would have a most injurious effect, in inducing the magistrates to withdraw themselves from attendance on that court.

Leave given to bring in the bill.

## *Petition of Bernard Coile.*

THURSDAY, MAY 23.—Mr. J. Smith, in the absence of Sir James M'Intosh, presented a petition from Mr. Bernard Coile, complaining of great sufferings and oppression endured by him about 1790, and afterwards in 1803 and 1804, in Ireland. This petition, which was mentioned during the last session, but deferred to give time for inquiry, alleged that the petitioner, being persecuted by the

Orange faction as a reputed Catholic, had on several occasions been improperly arrested and committed to prison; and then went on to give some extraordinary descriptions of the treatment which he had suffered in his confinement. One of the paragraphs containing these accusations ran thus, Mr. Coile being then in gaol in Dublin:—"Two sentinels were placed under the windows of your petitioner, with orders given, in petitioner's hearing, to prevent his speaking, or being spoken to by any person; and to fire on the parties, should the attempt be made. Your petitioner's health at this time was in a most delicate state; but life itself became hourly endangered by the brutal scenes and treatment which he was compelled either to witness or endure. On one occasion, after the execution and beheading of some unfortunate prisoners, the hangman, with his knife reeking with the blood of the unhappy culprits, entered the kitchen where petitioner's dinner was preparing, and with his bloody knife cut the vegetables preparing for petitioner's use. This incident had such an effect on petitioner, that for several weeks no solid food would remain on his stomach." Another charge was to this effect:—"Within the space of a few weeks, twenty-one persons were executed at Newgate and other streets in the city, whose heads and bodies were brought into the gaol, stripped, and laid opposite your petitioner's door. In that state of nudity the bodies lay until disposed of to the surviving relatives, who, being for the most part poor, were unable to make up the purchase-money of the corpse until it fell into a state of putrefaction under petitioner's view. When the hangman's harvest was reaped, he having received the sum of five guineas for the execution of each person, he was placed with a female companion beside your petitioner's room, as a retaliation for his insolence in daring to complain of such heinousness." After this, Mr. Coile was removed to Kilmainsham gaol, where he again speaks of the hardships to which he was subjected:—"In this place, for the completion of his misery, it was his fate to be placed under the superintendence of one Trevor, still living; who, in conjunction with a magistrate named Bell, immediately on coming under their inspection, deprived petitioner amongst other matters of a seal of Irish gold, bearing the motto 'Eris go Bragh.' Trevor removed your petitioner to the felons' side of the prison, and placed him in a cell, nine feet by six, which at that moment was tenanted by a man of the name of Doyle, labouring under a malignant fever, for the purpose, as your petitioner believes, of infecting petitioner with the distemper; and at the same time he was loaded with fifty-six pounds weight of iron on his body and limbs; and in order to cover such murderous designs, it was intimated in certain newspapers of the day, that your petitioner was insane." The petitioner concluded by declaring, that both his health and his fortune, amounting at one time to 40,000*l.*, had been destroyed by the persecutions which he had suffered; and prayed investigation and reparation from the house.

Mr. *Goulden* contended, that the case was not one for the interference of Parliament. The grievances complained of were thirty years old, and almost all the persons stated to have been concerned in them were dead. If Mr. Coile had been injured, the law had been open

to him, and he ought to have availed himself of it at an earlier period. A commission, upon the motion of Mr. *Sheridan*, had sat in the year 1808, for the investigation of cases like the present; but before that commission the petitioner had not thought fit to prosecute his claim. He concluded by protesting against the general principle of bringing charges of this kind against public officers, after such a lapse of time, when so many opportunities had occurred of preserving them before.

Mr. *Abercrombie* would admit, that after such a length of time, it would be difficult to enter upon such complaints as the present. At the same time he must say, that after having minutely examined a great many of the publications of the period in question, he felt convinced that no man could be treated with greater oppression than Mr. Coile had been (cheers). He was satisfied that the cause of the severity exercised towards him was his having prosecuted to conviction a magistrate, one Greer, in whose favour the Government of that day most improperly interfered to screen him from punishment (hear, hear). Without at all pledging himself for the accuracy of all the facts which Mr. Coile stated, he thought there was abundant proof that he had been most cruelly dealt with (hear, hear).

Mr. *Peel* said that an inquiry had been instituted some time ago, when some of the petitioner's charges had been gone into, and disproved.

Mr. *C. H. Hutchinson* conceived that the proofs were undeniable of the cruelty exercised towards the petitioner, and he called on the *rt. hon. Sec.* for Ireland to contradict, if he could, the facts which the petition contained. He knew several instances in which respectable individuals had been at that period taken into custody, and kept imprisoned, some in hulks, and others in prisons on land, for many weeks, and then discharged without trial or any other explanation of the conduct pursued towards them, than that Government suspected them. He thought it would not redound to the credit of Ministers to allow this case to go without serious inquiry.

Mr. *John Smith* said, that the whole seventeen state prisoners confined at that period concurred in one unanimous statement of the cruelty of Dr. Trevor's conduct; and he would ask the *rt. hon. gent.* whether twenty witnesses could not be produced to speak to this transaction?

The petition was ordered to be printed.

### *Law of Landlord and Tenant.*

Sir *Henry Parnell* rose to bring in a bill to amend the present state of the law between landlord and tenant in Ireland; and trusted that he should show the faults of the existing system so clearly as to have little to apprehend in the way of opposition. He agreed entirely in all that had been urged against the practice of subdividing farms. This practice had a direct tendency to increase the existing mass of population, and therefore to deteriorate its condition. The value of labour in Ireland was already far too low. It was scarcely possible for the agricultural labourer to sustain himself at an average rate of less than 1*s.* per day; and yet the present value of his work, according to the report of the Committee of Inquiry, scarcely amounted to 4*d.* It was

admitted that the population of Ireland had increased in a greater proportion than her capital; and one of the difficulties of her present situation, was that of finding employment for this increased population. The great difference between the situation of Ireland and that of other countries was, that the farmers who possessed large or even small portions of land, were in the habit of bequeathing them at their death, in subdivisions amongst their children. This was one cause of early marriages; and connected with their living on potatoes and the cheap mode in which that kind of food might be procured, it rendered the population of Ireland the most numerous, for its size, as well as the most wretched of any country in Europe. This practice of sub-letting and subdividing lands was in many other respects productive of very great inconvenience to the country: but he would not now go into the detail. He would, if the house gave him leave, bring in his bill, and let the whole subject be afterwards fully examined before the committee up stairs.

Sir J. Newport said the bill was not to interfere with any bargains or contracts for property, but to give due effect to those already in existence. He had the testimony of many gentlemen to prove that the greatest difficulty was found in the enforcing the clauses of leases, to prevent the subdivision and under-letting of land; and he could give many instances where land, let some twenty or twenty-five years ago to one or two individuals, by several bequests and demises, was now so subdivided, and had got into so many hands, as to be very materially deteriorated in value.

### *Provision for the Poor.*

LORDS, FRIDAY, MARCH 18.—Lord *Carbery* moved, that an humble address be presented to his Majesty, to lay before their lordships an account of the number of parishes in Ireland, with the amount of the funds applicable to the relief of the poor, with several other items relative to the same subject.

Lord *Clifden* seconded the motion, as he thought it was of importance that some relief should be given to the poor of Ireland, or multitudes must perish.

Earl *Darnley* said, though he should be averse to see the English system of poor laws adopted in Ireland, yet he was persuaded something ought to be done for the relief of the impotent, helpless, and aged.

COMMONS, TUESDAY, MARCH 22.—Mr. *Grattan*, in rising to ask for leave to bring in a bill for the relief of the poor in Ireland, said, that the object of his measure was to leave it optional in parishes to assemble in vestry to appoint a committee to investigate the state of their several parishes, to receive reports from such committee, and to collect subscriptions to relieve distress, in case the committee should be of opinion that distress existed. If the subscriptions should not be equal to the relief of the distress which they were intended to obviate, his plan was to enable the vestry to assess the parish to a certain degree. As the bill was only an experimental measure, he designed to limit its duration to a given time, in the hope that during that interval some other plan might be devised to enable the poor of Ireland to support themselves. His bill had no resem-

blance to the poor law of England; though he must say, that if some system to relieve the poor had existed in Ireland in the years 1816 and 1822, all those evils which the country so much deplored might have been avoided. For his own part, he did not expect that any permanent tranquillity would be found in Ireland until it had the benefit of some parochial system.

Mr. *Goulburn* had no intention of opposing this measure in its present stage. It was a subject which required serious attention; for the points to which the hon. gent. had so briefly alluded were of paramount importance.

Sir H. Parnell deprecated the introduction of the English system of poor laws into Ireland, which would soon swallow up the whole rent of the country.

Mr. *Fitzgerald* contended, that if a system of poor laws were introduced into Ireland, it would perpetuate its poverty and degrade its population for ever. He regretted that his hon. friend had not deferred the introduction of his bill till the committee on the state of Ireland had brought in its report.

Sir J. Macintosh said, that it was his deliberate opinion that the poor laws were the only curse which had not been inflicted on Ireland; and he trusted that the house would not consent to inflict it upon that country after the experience it had had of their lamentable consequences in England.

Mr. *Baring* was of opinion that the objection to the poor laws rose more out of the abuse than the use of them. He declined giving any opinion on the hon. gent.'s bill, because he did not know what the hon. gent. meant by it.

Mr. *M. Fitzgerald* said, that although he doubted whether Ireland could ever be placed in a fit condition to receive a system of poor laws, the house would be wanting both in humanity and good sense, if it shut its eyes to the condition of the Irish poor, most of whom were at the present moment thrown upon the State for support. It was absolutely necessary that something should be done to meet their pressing wants.

Mr. *Monck* had formerly been hostile to the poor laws, but declared that he had recently seen cause to alter his opinion. Had it not been for the poor laws, he believed that the peasantry of England would, during the late winters, have been quite as turbulent as the peasantry of Ireland had been.

Mr. *Bennett* was of opinion, that if the poor laws were introduced into Ireland manufactures would be established, and capital would flow into it. He was therefore glad that this bill was introduced as an experiment, and trusted that the hon. gent. who had proposed it would persevere with it.

Leave granted to bring in the bill.

### *Emigration from Ireland.*

FRIDAY, APRIL 15.—Mr. *W. Horton* rose to propose that a certain sum should be granted to his Majesty for the removal of emigrants from the south of Ireland to the Cape of Good Hope and Canada. It was not the intention of ministers to propose a renewal of this grant on any future occasion. He stated that the principle on which the system of emigration from the south of Ireland was conducted was a sound one. The error of all former systems was, that the emigrant, on his arrival at the colony, was left without any means of imme-

State support. Under the present system that error was avoided; and every emigrant might, on his arrival, be sure, with the exercise of common industry, of procuring a livelihood. Government had received the most flattering accounts of the success which had attended the present system so late as up to last February. Under these circumstances he felt justified in proposing the present vote. The undertaking was merely in the nature of an experiment, which might, in its operation, effect a partial benefit to Ireland.

Mr. *Grattan* was of opinion, that Parliament ought to be fully informed of what had been the result of the emigration which had already taken place, before they voted any more money.

Mr. *Abercrombie* disapproved of the principle of exporting the people of Ireland instead of finding employment for them at home. He did not, however, object to the plan as an experiment, but he thought it unwise that Government should bear the whole expense attendant upon the removal of the emigrants.

Mr. *Hume* opposed the grant, and was not at all satisfied as to the way in which the former sums voted had been disposed of. Believing that to agree to this vote would not only be useless but unjust, he should oppose it; and he thought the Chancellor of the Exchequer would act in contradiction to his professions if he persisted in thus adding to the public burdens.

Mr. *J. Smith* said, that notwithstanding the opposition of his hon. friend, he should support the grant of 30,000*l.* on the simple ground that he should thereby rescue a certain number of his fellow subjects from hopeless misery.

The vote was then agreed to.

### *Miscellaneous Estimates.*

FRIDAY, MARCH 18.—Mr. *Goulburn* having moved a sum of 21,615*l.* on account, for the Protestant charter-schools; 7,106*l.* on account, to the Society for discountenancing Vice in Ireland; 22,000*l.* on account, to the Society for educating the poor in Ireland; 34,478*l.* on account, to the Dublin Foundling Hospital; 19,750*l.* on account, to the House of Industry, Asylum, and hospitals attached; 5,640*l.* to the Richmond Lunatic Asylum, both in Dublin; 7,500*l.* to the Hibernian Society, for the support of soldiers' children; 1,500*l.* to the Hibernian Marine Society; 1,761*l.* for the female Orphan House, Dublin; 2,734*l.* for the Westmorland Lock Hospital; 2,885*l.* for the Lying-in-Hospital; 1,663*l.* for Dr. Steven's Hospital; 3,692*l.* for the Fever Hospital; 400*l.* for the Hospital of Inebriety, all in Dublin, &c. &c. and 722*l.* to Commissioners for Charitable Donations,

Mr. *Hume* objected to the principle of voting away such large sums to charitable institutions in Ireland. He admitted that they included grants for the purposes of education, to the principle of which, if properly applied, he did not object; but many of the other grants he thought ought not to be sanctioned. We had no institutions similar to some of those now before the committee in this island, and he did not see why the public should be taxed to support them in Ireland. A great many of them ought to be reduced altogether, and others put upon a proper footing.

Mr. *Grattan* admitted that the funds had increased since the Union; but a great portion of them was for education. The charitable grants did not exceed 220,000*l.*

Mr. *Monck* contended, that the support given by Government to charitable institutions generated more mischief than it relieved. If they were to give 100,000*l.*, for instance, to the Foundling Hospital, instead of 30,400*l.*, they would do nothing more than give a bonus to incontinency and to the propagation of illegitimate children (a laugh). The house was now proceeding in a wrong course, and that the best thing it could do would be to abandon it as soon as possible.

Mr. *Goulburn*, on being urged by Mr. *Hume*, said, that he would willingly consent to any advisable reduction, but he would not pledge himself to make any annual reduction: the amount of the grant must be always commensurate with its necessity.

Mr. *C. Grant* was of opinion, that though the principle of some of these grants was objectionable, the reduction of them ought to be gradual. If the house thought it proper to interfere with the charitable institutions of Ireland, he trusted that it would take care, first of all, that its bounty was equally divided amongst men of all religious persuasions in Ireland; and next, that it did not collect in Dublin all the pauperism and profligacy of Ireland.

The *Chancellor of the Exchequer* said, that before hon. members condemned these grants to the different schools and hospitals in Dublin so loudly, they ought to consider of what avail they were to that metropolis. They were most of them established before the Union, and were supported by the various noblemen and gentry who at that time were in the habit of residing part of the year in Dublin. As the Union had withdrawn from them great part of that support, the Government thought themselves bound in a certain degree to supply it. In London these institutions abounded, but were so well supported by voluntary contributions, that it was unnecessary for Government to give them any assistance. But as far as any evil arose from such a mode of expending money, it was the same whether the money came from the purse of the public, or from that of individuals. He would not withdraw these grants upon any abstract objections, because he knew that by doing so, he should leave many persons in a state of absolute destitution.

Mr. *S. Rice* contended that the efforts made by individuals to relieve private distress in Ireland were equal to those made by any individuals in any European country. Though Ireland had no poor rates—and long might she continue without them (hear, hear)—her poor were supported by dispensations of charity, which did honour to the country.

The grants were then agreed to.

Mr. *Goulburn* moved the resolution of granting 19,938*l.* 9*s.* 2½*d.* to defray the expenses of the Irish linen board.

Mr. *Hume* strongly objected to this vote, in consequence of its principle being in direct variance from that recently recognized and acted upon in commercial affairs. If this board were continued, they would be called upon for similar establishments to superintend other branches of manufacture.

Mr. *Goulburn* reminded the hon. gent. that the linen manufacture was of the greatest importance to Ireland, and this board was calculated to extend its value. He observed, also, that it gave employment to the poor, an object much insisted upon by hon. gents. opposite.

Mr. *Peel* reminded the committee, that this question involved a consideration of feeling as

well as of policy, and ought not therefore to be viewed on abstract commercial principles. They had discouraged the Irish woollen, and substituted that of linen; he hoped, therefore, they would not precipitately withdraw from it this kind of support.

Mr. Gordon complained that the money for salaries for the Irish linen board went chiefly to the retainers of ministers.

The *Chancellor of the Exchequer* adverted to the reduction of the linen bounties, to show that Government had not been asleep at their posts. Ireland was unlike countries which were prepared to receive the best principles of political economy. It would be imprudent to withdraw suddenly those aids which Ireland had been accustomed to receive.

Mr. J. Smith did not expect that the principles of political economy could be enforced in such a country as Ireland, and should therefore support the grant. His hon. friend (Mr. Hume) had stated, that out of seventy-two individuals connected with this board, there was not one Catholic. He hoped that that assertion might not turn out to be entirely accurate. There would never be prosperity in Ireland until there was an end of religious animosity.

For the motion, 76; against it, 17.—Majority, 59.

MONDAY, MAY 30.—On the resolution for granting £5,000. for the completion of public works,

Mr. Hume objected that the last grant had been made with an understanding that Government had solemnly bound themselves to discontinue this expense at the earliest possible period.

Mr. Goulburn said, that the works in question had been undertaken when the country laboured under the deepest distress for want of the means of employment for the population. The roads and buildings were of considerable usefulness and beauty in themselves; but they had a stronger recommendation on a moral account. By them the labouring poor had been taught how to make the most of their industry, by working at piece work, and the upper classes had been taught the happy consequences which resulted from the habit of paying those employed in their service adequately. These works were particularly useful at that time of the year when the wages of agricultural labour failed the poor classes.

Mr. Greville thought that a stop ought to be put to the expenses of public works in many of those counties of Ireland wherein they had been for a long time carrying on; and other counties which had not yet felt the benefit of such works should be admitted, in their turn, to participate in them.

Mr. Peel was of opinion that the execution of public works was one of the most legitimate objects to which the public money could be applied.

Mr. C. H. Hutchinson concurred with those who thought that the employment afforded by these public works to the poor and labouring classes had done much to secure the peace and tranquillity of the south of Ireland. On the same account he recommended a perseverance in the same beneficial system.

Mr. Hume thought, on the contrary, that the plan of giving a share of the public money to one particular class of persons, as an inducement for them to labour on public works, was highly objectionable. Upwards of 1,000,000.

had been appropriated to these purposes in Ireland already; and as for any certain good that it had done, it was his opinion that it might as well have been thrown away.

The resolution was then agreed to.

### *Banking Companies.*

TUESDAY, MARCH 15.—Sir Geo. Hill moved for leave to bring in a bill for the regulation of copartnerships in Ireland, which he described as a measure necessary to give protection to the capital now rapidly flowing into Ireland from this country.

Mr. Dawson did not wish to do any thing injurious to the Bank of Ireland. But that company owed duties to the country, in the fulfilment of which, during times of urgent distress, they had shown themselves backward. He alluded not only to their tardiness in lowering discounts, but also to their backwardness in not enlarging the circulation at a pressing juncture, when that accommodation was required. He anticipated great advantages to the productive powers, the commercial wealth, and the revenue of Ireland, by the establishment of a provincial banking company. Some such measure as that proposed was absolutely necessary, for although past experience had shown how direful were the hazards of private banking in Ireland, Provincial banking was, nevertheless, rapidly going on, to meet the necessities of commerce.

Sir H. Parnell agreed in censuring the indifference of the Bank of Ireland to the distresses which some time ago prevailed in the south of Ireland, and which they might with ease have prevented. He complained of the inequality of the existing law upon the subject as regarded both England and Ireland.

The *Chancellor of the Exchequer* had bestowed his full share of attention upon the subject of this bill, to which he promised all the support which he could conscientiously give. He did not agree with the suggestion of his hon. friend (Mr. Dawson), who seemed to think that the charter of the Bank of Ireland might be infringed upon because of some real or supposed impropriety in their past management. On the contrary, he thought that the contract with the Bank of Ireland ought to be strictly kept. If the company had done any thing contrary to the purposes for which their charter was granted, that would be another case. It could never be contended, that because the legislature might happen to be hampered with an obligation, that they should therefore be at liberty to violate it (hear, hear.) The principles, however, that had been advanced, would, if fully acted upon, lead to a violation of the Bank of Ireland's charter, by implication at least, although they might not in specific terms infringe upon its absolute expressed conditions. His hon. friend had been, he thought, a little severe on this body. They might, to be sure, have been in some degree illiberal; but that was a fault which they committed in common with most other commercial bodies, who generally looked after their own advantage, with rather more anxiety than they manifested for the concerns of others. Such a fault, however, could never appear to Parliament of sufficient weight to justify an attack upon a chartered company of this nature. If, indeed, it could be shown that the Bank of Ireland had, in any way, violated any duties, the performance of which on its part, was stipulated in the

conditions of its charter, that fact might furnish a proper ground for such an attack. Whatever the house might ultimately desire to do, he was very sure they would not forget that it was the weakest and most impolitic thing in the world to seek to effect a public benefit by any act of positive injustice (hear)—by any act, which, while it would be oppressive and unjust to private individuals, could never be justified as a general measure on grounds of public feeling (hear).

Mr. *Spring Rice*, acquiesced in thinking, that if there were any thing in the terms of the charter of the Bank of Ireland to preclude the introduction of this or any similar bill, that would be of itself a valid objection to the present motion. But when the *st. hon. gent.* adverted, as he rather seemed to do, to considerations of an equitable nature in favour of the Bank, he must beg leave to quote a principle, that he had often heard contended for by *hon. friends* of his in the legal profession; that whenever a party set up an equitable construction, he must come into court with clean hands, by showing that he had done his best to fulfil the expressed condition of the contract. But up to a very late period, what had been the conduct of the Bank of Ireland? It had refused these advances or accommodations, however unexceptionable the security tendered, unless the parties concerned happened to be engaged in the trade of Dublin itself. If they belonged to Cork or Belfast, for example, or any of the southern districts, however respectable they might be, parties must establish an agency in Dublin before they could obtain any such advances. Now the Bank of Ireland did no business at all of this kind under 5 per cent.; the charge of the Dublin agency was about 1 per cent. more; and with the postages, brokerage, &c., the accommodation to such parties could only be obtained at the rate of nearly 7 per cent. It was the jealousy which the Bank of Ireland felt at the introduction of English capital and capitalists into Ireland, that alone induced it to take any adverse steps to such a measure as this. As to English capital, he did not augur all the benefits which the *hon. gent.* anticipated from its introduction, so much as he looked forward to the happiest results from the circumstance of that English capital being to be managed by English capitalists (hear, hear). That circumstance would introduce into Ireland those habits of good faith, regularity, and punctuality in business which its commercial transactions at present stood so much in want of. Upon this principle it was that he felt chiefly induced to vote for the measure.

Mr. *Trant*, in supporting the motion, stated a fact that had occurred not long ago, that went very far to prove how necessary some measure of this nature had become. A relation of his had a sum of a few hundred pounds to remit to England. He happened to reside about a hundred miles from Dublin; and there being no private bank between him and the capital, through which he could remit the money, he was absolutely obliged to travel with it in his pocket.

Mr. *M. Fitzgerald* said, that in the time of the most extreme pecuniary distress and depreciation in Ireland, a very few years since, the Bank of Ireland appeared to be wholly insensible to the distresses of Munster and Connaught, and limited its aid within the circumscribed limit which had been spoken of. The

disadvantages under which the trade of the south of Ireland laboured, were much increased by the Bank's refusing to discount the provincial paper, unless accepted by some resident in Dublin. The commercial intercourse between Munster and Dublin was, in consequence, very limited. The chief trade of Munster was with England. He warmly supported the proposed measure.

Mr. *Sneyd* asserted that no private bank whatever, but the Bank of Ireland alone, had relieved the distresses of the south of Ireland.

Leave given to bring in the bill.\*

### *Currency Assimilation.*

THURSDAY, MAY, 12.—In a committee on the Currency Acts, Mr. *Wallace* proposed a series of resolutions with a view to assimilate the currencies of England and Ireland. He entered into a review of the state of the currency in the two countries for a long series of years, in which he pointed out many of the practical disadvantages of a want of assimilation in both. His object was to remedy these inconveniences, by equalizing the real and nominal value of money in England and Ireland. With this view, he proposed that after a certain period, all pecuniary contracts should be understood to be made as for English money. The bill, however, would not affect existing contracts in Ireland, which should be taken at twelve-thirtieths of English currency. The Bank of Ireland notes were now issuable for three years, and re-issuable at any time within that term for a similar period—so as, in fact, to include a term of six years. He proposed that they should not be re-issued after being once paid into the Bank; but he intended to allow for the stamps on the old notes as for spoiled stamps. The new notes issued in their place would have, to prevent mistakes, some distinguishing marks to denote that they were for such an amount, British currency. To prevent any mistakes, or confusion that might arise in reckoning the copper coins of Ireland, thirteen pence of which at present represented the value of a shilling, British currency, he proposed to have an entirely new copper coinage, which would bring the twelve pence to the value of one shilling British; and in order that no person might plead ignorance of the act, he would propose the adoption of some measure which would give it the utmost publicity. He should so arrange the details of the measure, as not to affect the forty shilling freeholds in Ireland.

The resolutions were agreed to without dissent.†

### *Butter Trade.*

TUESDAY, MARCH 15.—Sir *H. Parnell* said, he should have contented himself with merely moving for all copies of memorials that had been presented to the Treasury, relating to this trade, if the extraordinary interest which this subject had excited in that part of Ireland with which he was connected, had not appeared to require a few observations upon the matter. The butter-trade formed an export of the an-

\* 6 Geo. IV. Cap. 42.

† 6 Geo. IV. Cap. 79.

tual value of about 3,000,000*l.*, or 700,000 casks of butter (hear, hear). This trade was principally carried on by a great number of small farmers and merchants. In the year 1812, the trade was unfortunately put under a number of very vexatious and mischievous regulations, specified in an act of Parliament then passed. Other acts had been made before of a prejudicial nature in themselves, but they had not been enforced. In 1812 a bill was introduced—notwithstanding his utmost opposition, and the necessity he felt himself under of repeatedly dividing the house upon it, which subjected the butter trade to a whole series of such vexatious regulations, of which the principal ones were these: that every cask of butter should be sold in a public market;—that a public officer, called a taster, should taste all the butters brought to market (a laugh), and mark their respective qualities. The result of this arrangement was, that if the taster chose to mark a cask “second quality,” he diminished its value as much as ten shillings per cwt. If he marked it “third quality,” he reduced it five shillings per cwt. more. Now gentlemen would observe how serious a difference this must make in the price of a cask, which on the average was about four pounds sterling. They would see, too, what a dangerous power this was to vest in any officer, whose office, too, hardly any respectable person could be found to take. No less than 700,000 casks must annually undergo this operation of tasting (a laugh). It was impossible for him to describe to the house the extent to which corruption and practical oppression took place under a system thus requiring every cask of butter to be publicly tasted by the tasters (a laugh). Upon this tasting there was a fee of two pence per cask, which two pence the merchant or factor deducted from the proceeds in his account-sales, and undertook to recover again of the buyer. But under various pretences of weighing, branding, &c., this charge occasionally rose to five pence, seven pence, eleven pence, and even as high as five-and-twenty pence per cask (hear)—a loss which the poor farmer, on whose account it was sold, had to sustain. There was an officer, also, appointed under the act, to mark and brand on the casks their capacity and weight. But he had discovered, from various sources of information, that it frequently happened that the officer, whose duty was to brand the casks, accepted bribes from interested parties, and left his brands in the hands of the coopers themselves (hear). In short, both in this manner, and in respect to the weighing in the market, the greatest corruption prevailed in the markets in Ireland. He trusted therefore, that the treasury had already made up their minds as to what course they would take in respect to this important subject, after the memorial which had been already presented to them, and especially after the notice which had been given by the hon. member for London to introduce a bill for the better regulation of this trade.

Mr. Charles Grant thought the hon. bart. had stated quite enough to convince the house, that the present regulations of this important trade had led only to fraud and collusion. They had been, as might have been expected, discovered to be quite inefficient for the purposes which they were intended to effect, and had been pro-

ductive of much mischief that had never been anticipated. He could not help thinking that these regulations were of a piece with the system of marking and branding the Irish linens, which had been so utterly ineffectual to advance the welfare of that trade (hear).

Mr. Hume expressed his entire concurrence in what had fallen from the rt. hon. gent. Since the repeal of the laws about branding the linens of Scotland, its trade in that manufacture had very much improved (hear, hear); and he wished the linen manufacturers of Ireland could be prevailed upon to try a similar experiment, which he was sure would be attended with results equally beneficial.

Mr. Dawson hoped, that in the interference with the trading interest of Ireland, the linen trade, which was going on in an extremely gratifying manner, would be suffered to remain as it was.

Mr. M. Fitzgerald argued, that there was an absolute necessity for an alteration in the act of 1812. By one of its clauses, butter could not be sent to the Cork market, except in a firkin which had been made in Cork. The consequence was, that the whole province of Munster must have firkins manufactured in Cork, if it were intended that the butter manufactured in the different districts should be sent to the Cork market.

Sir H. Parnell contended that it was essentially necessary to go into an inquiry on this subject. He should fail in doing his duty if he did not impress on ministers the necessity of granting relief to hundreds, nay thousands of people in Ireland who were oppressed by the present system. Those persons in Cork, Limerick, and Dublin, who supported the present system, were interested individuals, who derived large incomes from weighing butter. As interested parties, their opinion ought to be received very cautiously. The existing measure was carried by the Chief Sec. for Ireland for 1812. It was an act of Government; and Government having imposed on the country this extensive system of corruption and oppression, it was the duty of his majesty's ministers to remove immediately this obnoxious measure (hear, hear).

The motion was then agreed to.—The subject was again mentioned on

FRIDAY, APRIL 22, when Sir G. Hill was of opinion that no new measure should be adopted respecting this trade without a serious and extended inquiry.

Sir J. Newport had no objection to inquiry; but in his opinion it ought not to take place till the commencement of the next session. If the examination were now set on foot, it would have a great effect on the exportation of butter. Day after day the price of that article would be influenced by the evidence given, or the statements made before the house.

Sir H. Parnell said, that the corrupt practices carried on under the Butter Act were a most severe infliction on poor and industrious people. And he could see no reason why inquiry should not commence now. This was but the 22d of April, and on the 12th day of May last year, a committee was appointed to inquire into the whole state of Ireland.

Mr. C. Grant was quite ready to go into inquiry on the subject.



## SCOTLAND.

*Scotch Judicature.*

**LORDS, MONDAY, FEB. 7.**—The *Lord Chancellor* called to their lordships' recollection a bill for regulating the judicature of Scotland, which had passed that house in the course of the last session. Before that bill was brought in, a commission of inquiry had been appointed. The commissioners were selected from among the persons best qualified and able to give information on the subject. A report was made by the commission to the house, and a bill conformable to the recommendations of the report was introduced and passed, and sent down to the other house, where it received considerable amendments in consequence of some Scotch publications on the subject. It was not thought consistent with their lordships' dignity to adopt the amendments made on such authority, and the bill was lost. He intended, therefore, to bring in a new bill in precisely the same form as that of the last session, and if any further light could be thrown on the subject, that bill might undergo alterations when before their lordships' committee.—On the following Monday his lordship brought in a bill, which was a copy of the bill of last session. It was read a first time.

**THURSDAY, FEB. 24.**—The *Lord Chancellor* moved the second reading of the bill, and after stating the grounds of the measure in nearly the same terms as upon a former occasion, observed, that if their lordships should find the nature of jury trial so completely understood as to warrant a change, they would have to consider whether it ought to be farther extended, or remain in its present state. It was important for their lordships to consider whether the bill should be perpetual or temporary: if temporary, sufficient time should be allowed to make a fair experiment of jury trial. In proposing the second reading of the bill this day, it was his intention to move its commitment on Monday next.

The bill was then read a second time and was ordered to be committed on Monday.

**FRIDAY, MARCH 4.**—The *Lord Chancellor* having moved that the bill be committed,

The *Earl of Lauderdale* proposed a clause, the object of which was to cause all the acts of sederunt of the Court of Session to be presented to both houses of Parliament.

The clause being inserted, the bill was reported and ordered to be printed.

*Scotch Juries.*

**MONDAY, FEB. 28.**—*Lord Melville* rose, pursuant to the notice he had given of his intention to introduce a bill for better regulating the mode of choosing juries in Scotland. It would be in the recollection of their lordships, that on more than one occasion when a bill for altering the present manner of choosing Scotch juries was formerly before the house, he had objected to it on account of the complexity and inefficiency of the proposed remedy. The machinery of the bill brought from the Commons was very inconvenient, even more incon-

venient than that now in use. At that time he had stated that he would, with the concurrence and assistance of persons in the northern parts of the united kingdom, well informed on the subject, undertake to prepare a bill, having the same object as that which had been rejected. This bill he had now the honour to tender to their lordships. As to the alterations, in the first place, their lordships were aware that at the Union the law of high treason was assimilated throughout Great Britain; but though the law on this subject was the same in Scotland as in England, it had been found difficult to render the mode of choosing the jury exactly alike. In England assizes were held in each county, but in Scotland the circuits were held for districts, consisting generally of four counties. He therefore meant to propose, that in cases of high treason the lists of grand and petty jurors should be returned from districts, and not from counties. In the second place, it was to be recollected, in regard to ordinary trials, that the assize in Scotland was not at all regulated in the same manner as in England. The prisoner received a list of the names from which his jury was struck fifteen days before trial; and he proposed, in addition to this, to make the mode of selecting the jury more conformable to the practice of this country; the choosing of juries, which was now left to the judge, he proposed to effect by ballot, leaving both to the prisoner and the prosecutor an equal right of challenge.

The bill was then read the first time.

**COMMONS, MONDAY, APRIL 18.**—On the motion for the second reading of the Scotch Juries bill, in this house,

*Mr. Kennedy* said, that the bill before the house was for the purpose of effecting an alteration in the existing law, which he had advocated for the last five years. He could not, however, fail to remark the inconsistencies of the learned lord opposite, who had so frequently opposed the measure, he was himself now about to introduce. Late as was the period at which it was introduced, he hailed it with great satisfaction.

*Mr. Hume* recommended that some clause should be introduced to simplify and reduce the amount of qualification for special jurors, and for employing them on criminal as well as civil trials.

The *Lord Advocate* said that the main object of the bill, which had been framed with great trouble and care, was to provide an impartial jury for all cases which should come on to be tried. With reference to the various classes of society, and the interests which were connected with them, it would be obviously impossible to do away with the difference between common and special juries; but their attendance and impartiality had been amply secured by the provisions of the bill. He claimed on behalf of the persons by whom this bill had been prepared, credit for the fair and honest manner in which it was brought forward.

*Mr. Abercrombie* said, that the credit of this measure, whatever it might be, and he was disposed to think very highly of it, belonged wholly to his hon. friend (*Mr. Kennedy*). His hon. friend, when he first proposed it, was called a dangerous innovator; and yet now the Lord Advocate was found to go much further

than his hon. friend had intended. He had now in his possession a letter of the Lord Advocate addressed to the Scotch freeholders, in which they were warned against the object of this measure. He therefore wished that the people of Scotland might learn from the circumstances that attended it that the Scotch freeholders did not represent the interests of that people, but that if the people would persevere in a good cause, without being alarmed either by the denunciation of the learned lord, or of those members who were supposed to represent the interests of the landholders of Scotland, they must ultimately succeed. He had no doubt that very great benefits would result to Scotland from the present bill.

The bill was then read a second time, and ordered to be committed on Friday next.

### *Partnership Societies.*

WEDNESDAY, JUNE 22.—The Lord Advocate moved the third reading of the Partnership Societies bill.

Mr. J. P. Grant, alluding to the very thin state of the house, wished the third reading to be postponed.

The Lord Advocate was very sorry to press the measure, but he was obliged to go down to Scotland on the morrow (a laugh).

Mr. J. P. Grant contended that the bill had been brought in, without any thing like due consideration: its preamble recited that to be true, which, in fact, was manifestly false; and declared that to be law which the decision of the House of Lords in a recent case had declared not to be law. Without meaning to employ unnecessarily strong language, he would venture to say that if this bill should pass, it would hold up this house to absolute ridicule. Now the bill set forth, that by the law of Scotland, partnerships or commercial associations of individuals might sue and be sued in respect of debts, bonds, &c. in the name of the firm; but when he last addressed the house, he had showed that so far from this being the case, decisions of the courts of session in Scotland had repeatedly held that such partnerships could neither sue nor be sued. Indeed, the following part of the preamble stated "that doubts had arisen, &c." and the ground of those doubts was described to be that the House of Lords would not entertain any question on appeal in cases wherein the parties had sued in the names of the partnership.

The Lord Advocate begged the learned gent. would understand that he was called to Scotland by public duty, not by private convenience. He must contend that by the well-known law of Scotland, as it had existed for upwards of 100 years, partnerships might sue and be sued by their secretary; and by an act of the Scottish Parliament in 1691, that was expressly stated and provided. Authority, too, was given by the same law to record bills of exchange, in further extension of the principle that partnerships might sue and be sued. The records of Parliament would show innumerable instances of appeals carried on in the names of such joint partnerships. He would further observe to his learned friend, that this was not a declaratory but a prospective bill. As to the case before the House of Lords which had been alluded to, no decision had yet been come to in

respect of it, and therefore it could prove nothing, for his learned friend's argument. The measure was one of the utmost importance to the commercial interest of Scotland; and he would take upon himself to say they would be excessively alarmed if they heard that the question had been made any matter of doubt.

Mr. Thomas Wilson, though not connected with the country in question, readily supported the bill; and he was so convinced of its beneficial tendency, that he should be glad to see a similar measure introduced into our own commercial law.

Mr. Scarlett would be sorry to see any such thing introduced into the law of England; for it would lead in its operation to a great deal of fraud (bear). For if all partners in a partnership were able to sue or be sued in the name of the firm, what would be the condition of a defendant, who having been proceeded against by all of them, should have judgment in his favour? How would he be able to recover his costs? It was to be hoped, therefore, no such measure would be engrafted upon the law of England. As to the bill itself, he must be allowed to say that it was clearly a declaratory bill.

Mr. Baring was sorry that the matter did not appear to have been more digested before its introduction in this shape. The learned lord had intimated that in Scotland it was absolutely necessary, and could not be dispensed with; a learned friend of his had just declared, that he should be sorry to have it introduced into the law of England, because it would be productive of fraud; and that observation was cheered by the learned Attorney-General. Now if, as he himself believed, this would be a beneficial measure for one part of the empire, why would it not also for another? He concurred with his hon. friend (Mr. Wilson) in wishing to see a similar provision introduced into our law. This was another instance in which lawyers had shown that they were not the best judges of what laws would be most beneficial for merchants (a laugh). In Ireland an old law existed, authorising individuals to form partnerships with a limited responsibility; but in England the matter remained in a state of doubt and difficulty, which he had no doubt the lawyers considered to be the perfection of all law (a laugh). Against the present bill, however, he was disposed to vote, for one of the reasons that seemed to have induced his hon. friend (Mr. Wilson) to support it—namely, that it did not apply to all parts of the united kingdom.

The Attorney-General said, it had been considered by those who introduced this bill, that they were proceeding upon what was law, and had been considered to be law in Scotland for 100 years and upwards. At the suggestion of some commercial men, he himself had lately entertained some thoughts of proposing a similar measure in respect to England; but when he came to look more carefully at its necessary operation in this country, and to consider how wide a difference the very existence of such a court as the Court of Chancery made between the two kingdoms in respect of the expediency of such a law (which court Scotland did not possess), he was convinced that it was not advisable to introduce any such measure into the law of England. The present bill was not declaratory; it did not establish any new principle; but was brought in for the purpose only

of removing any doubts about that which was already law in Scotland.

The bill was then read a third time and passed.

### *Scotch Peers.*

**LORDS, MONDAY, MARCH 7.**—Lord Melville rose, pursuant to the notice he had given, to propose to their lordships an important measure respecting the privileges of some of their own body. There was no necessity for him to state what the law was with regard to peers in this country, as that must be well known to their lordships. In Scotland, however, the law was different. The Scotch peers had, as peers, the same privileges as peers of the United Kingdom, but their situation was affected by the act of union. Subsequently to this, an act had passed, regulating the forms of proceeding in trials of peers, but this act was ambiguous. Some other act, later than this, had made an alteration in the law relative to high treason. The law of England as to treason had been extended to Scotland, but without the machinery of the English law it was inapplicable and ineffective. The trials for high treason which took place in 1715 and 1745 were had, he believed, on impeachments by the house of Commons. Though, in case of treason, the law might now be sufficiently clear, for ordinary cases no provision had been made; Parliament had not stated what the law was, and he wished to have a Committee appointed to find out what it was; and if they thought it necessary, to propose some measure to their lordships. His lordship concluded by moving for the appointment of a committee to inquire into the law as it applied to Peers of Scotland.

Lord Holland wished the inquiry to be extended to offences which were not political. From all he had heard and read on the subject, he was convinced that the laws of Scotland very much required to be looked into by their lordships.

### *Trials in Scotland.*

**COMMONS, THURSDAY, MAY 5.**—Mr. J. P. Grant moved for leave to bring in a bill to alter and amend the existing law respecting wrongous imprisonment, and delays of trials in Scotland. The learned gent. said it must be evident that it would be better that all the laws on this subject should be comprehended in one act, rather than spread, as they now were, in a variety of acts over the whole statute book. It was allowed by every body, that the Scotch law was extremely defective on these points. Nothing could be more absurd, than that the inhabitants of one end of the country should live under one system of laws, so vitally affecting their interests, while the inhabitants of the other end should live under a different system. He could assure the learned lord opposite (the Lord Advocate) that it was not his intention to interfere with the office of Lord Advocate. His objects were principally these:—first, to throw greater responsibility on the magistrates in granting warrants for the apprehension of criminals; next, to give an enlarged power to the judges of the criminal courts, for the better protection of the liberty of the subject; also, to remove doubts and difficulties where they existed; and lastly, to

place the poor man on the same footing as the rich, with respect to trials. The learned gentleman then proceeded to explain to the house the insufficiency of the present law, and the absolute necessity of its amendment. He added, that if the house should allow the bill to be brought in, he would propose that a distant day should be appointed for its second reading, in order that it should in the mean time be printed and sent down to Scotland, for the purpose of being submitted to the law authorities of that country for their opinion.

The Lord Advocate said he did not mean to oppose the bringing in the bill, but at the same time he thought that great caution should be observed in interfering with a law which had existed for upwards of one hundred years, and which might be considered the *habeas corpus* act of Scotland. The learned lord then proceeded to call the attention of the house to the advantages of the present law, and contended that the act of 1701 afforded a greater protection to the people of Scotland against wrongous imprisonment, than was afforded to the people of England by the *habeas corpus* act. He hoped, however, that his learned friend would bring in his bill rather for the amendment than the repeal of the present law, as the word "repeal" might excite some alarm among the people of Scotland. The changes which the bill of his learned friend would introduce into the law of Scotland would cause all the criminals of that country to be tried in Edinburgh, and would so create an annual expense of 15,000*l.* or 20,000*l.*, without conferring any benefit on the public.

Mr. Grant said, that he would comply with the suggestions which had been made to him, and would alter the title of his bill from "a bill to repeal," to "a bill to amend," the act of 1701.

Leave was then given to bring in the bill.

### *Shooting and Stabbing Bill.*

**MONDAY, JUNE 20.**—On the motion for the third reading of the above bill,

Mr. J. P. Grant said, he had no objection to the extension of Lord Ellenborough's act to Scotland; but the bill now before the house went a great deal farther, and created, in the last clause, quite a new law. It enacted, that if any one threw vitriolic acid on the person of another, that act should be deemed a capital offence. This provision was introduced in consequence of certain proceedings that had recently taken place in Scotland. Vitriolic acid, it appeared, had been thrown on the clothes, and sometimes on the persons, of individuals, who refused to join the workmen in their unlawful proceedings. It was undoubtedly fit that this practice should be put down; but the way to put it down was not by enacting a penalty at which the minds of the public revolted, and swelling, on account of local outrages, the list of capital punishments in a code, already the most sanguinary in Europe. In legislating on matters of this kind, the house ought always to endeavour to carry the public mind along with them. There was, too, a strange anomaly in this bill. By Lord Ellenborough's act it was provided, that if A. fired a pistol with intent to kill or maim B. and in doing so missed his object, and killed or maimed C. he should be sub-

jected to the penalty of death, just as if he had succeeded in his original intention. But here, if A. threw vitriolic acid on B. and deprived C. of sight, he was not liable to the penalty, since it was only the act coupled with the intent, and not the intent alone, that was punished; he believed that this was the first time in the criminal legislation of any country that the intention to commit a crime was only made punishable *provided* that intention took effect. He should therefore move the third reading this day six months.

The *Lord Advocates* said, there was no man more unwilling than he was to extend the penal code of the country; and he was sure, if gentlemen connected with Glasgow were then present, they would state the fact, that for three years past he had refused all applications to resort to the present measure. But the scenes which had occurred in the west of Scotland for a considerable time compelled him, however reluctantly, to legislate on this subject; and he felt perfectly convinced that he could not devise an adequate remedy for this evil if this clause were not introduced. Much information would be found on this subject in the evidence given before the committee on the combination laws. He then held in his hand two certificates from Dr. Corkendale, of Glasgow, detailing the deplorable state to which two workmen had been reduced, who were taken to the infirmary in consequence of vitriolic acid having been thrown in their faces. Several persons were tried for this offence, and sentenced to transportation, but that punishment had not the effect of diminishing the crime. He could assure the house that he had been recommended to introduce this measure, not only by the magistrates, but by the workmen themselves. Every clause of Lord Killenborough's act applied to this case. If a man were cut in the slightest degree with a sharp instrument, he was liable to the penalty of death for the act; and surely there could be no comparison between a slight injury of that kind, and the misery which an individual must suffer when vitriolic acid was thrown in his face. The man who inflicted a wound, might have had the knife in his hand, by chance at the moment; but when vitriolic acid was flung on an individual, it must have been purchased for that diabolical purpose. If this clause were thrown out, he would withdraw the bill altogether. In cases of shooting and stabbing, the probability was, that the person injured, or some passing individual, could give evidence as to the hand that inflicted the wound; but where vitriolic acid was made use of, such precautions were taken as rendered it extremely difficult to procure evidence. It did not however follow, that though the offence was capital, that capital punishment would always follow its commission. His learned friend must know that a discretionary power was left in the hands of the judge. Neither was it intended that this should be a permanent measure. It was meant to confine it to five years, at the expiration of which time he hoped the necessity for it would have ceased.

Mr. *Peel* felt that it was due to the moral character of the people that the bill should be temporary.

Mr. *Hume* said, that the forbearance shown by the learned lord when he was called on to

legislate on this subject did him the greatest credit (hear); and any hon. member who looked to the evidence taken before the committee on the combination laws, would see that the best possible results had been attained by that forbearance (hear).

Mr. *J. P. Grant* said, as this was to be a temporary measure, he was willing to withdraw his opposition. The bill was then read a third time, and passed.

## FOREIGN DEPENDENCIES.

### *Colonial Trade Bill.*

COMMONS, MONDAY, MARCH 21.—The house having resolved itself into a committee to consider of the Acts 3rd Geo. IV. cap. 44 and 45, on the American and West India Trade,

Mr. *Huskisson* said, although the resolutions with which he should conclude his speech were in strict accordance with the recommendation in His Majesty's speech, and with the disposition of the house, in respect to the removal of restrictions upon commerce; he was afraid that it would be necessary for him to trespass, more at length than he could wish, upon the indulgence of the committee. Considering the many important interests that might be affected, the alarms that might possibly be excited, the predilections that might be awakened, the prejudices that might be roused, by the measures he was about to propose, he was sure the committee would forgive him, if he dwelt upon explanations and statements, which might, otherwise, appear to be uncalled for. He could assure the committee that if he were about to recommend alterations at variance with the ancient sentiments of this country, in respect to colonial policy and trade, it was not because he considered the views of our ancestors as necessarily erroneous, or that innovation must necessarily be improvement; but it was because the circumstances and state of the world, in which he had to examine colonial interests, had changed; and it became them as practical statesmen, to deal with those interests with a reference to that change. It is only in that sense, and with that qualification, that he desired to be looked upon as an innovator. He was not anxious to give effect to new principles, where circumstances did not call for their application; feeling, as he did, from no small experience in public business—and every day confirmed that feeling—how much, in the vast and complex interests of this country, all general theories, however incontrovertible in the abstract, required to be weighed with a calm circumspection, to be directed by a temperate discretion, and to be adapted to all the existing relations of society, with a careful hand, and a due regard to the establishments and institutions which had grown up under those relations. It was under these impressions, that he intended this evening to request the attention of the committee to the system of our commercial policy in respect to our colonies. It must be well known to every gentleman that the long established policy of all the European powers possessing colonies in the New World, and of this country among the rest, was that of an entire and rigid exclusion of those colonies from all commercial intercourse, except with the mother country. To uphold this exclusion, and to forbid all such inter-

course, seemed of the very essence of colonization. In the strict and even inhospitable enforcement of this principle Spain, with the largest colonial possessions in the world, shewed herself the most determined, and most exclusive. But without being equally jealous, other powers were not less tenacious of the principle. He could not give a stronger proof of this, than by reminding the committee, that this exclusive intercourse was held to be a part of the international law of Europe. In our prize courts it had been commonly referred to, and acted upon, as the rule of the Seven-years' War. Under this rule, the colony of a belligerent could not claim to carry on trade through the intervention of a neutral, because that neutral was not permitted to participate in such trade in time of peace. But although this had been the long-established basis of the colonial system, vast inroads had been made upon that system within the last fifteen years. Let the committee look at the Brazils, that immense country, which was held by Portugal under a strict exclusion, till the migration of the Royal Family from Lisbon to Rio de Janeiro, in 1808. Let them look at the large and fertile Island of St. Domingo; to the present state of those extended regions on the continent of America, lately, as colonies of Spain, shut out from all intercourse with the rest of the world. Again, let them look at Cuba, and the Islands which had continued their allegiance to the Spanish crown, the trade with which was now open. Considering this almost general revolution in the system of colonial commerce, and its influence upon the commerce of our own colonies, upon the commerce of rival nations, upon the views, feelings, and speculations of the mercantile part of the community, and of our own colonial population, was it not enough, of itself, to warrant at least, the inquiry, whether so great a change in the colonial system of other nations did not call for some change on our part? He would not examine how far this inquiry was now become necessary, in consequence of our pretensions to participate in the commerce of these foreign colonies, and by the fact of our so participating; or how far fairness and justice, and that duty, which power, above all, owed to weakness, required that we should reciprocate the benefits which we exacted. These considerations, however important, did not perhaps immediately belong to the discussion, viewed as a commercial question; but there was another inquiry which, in that point of view at least, it became them not to neglect. Had the colonies, of which the trade had been thrown open, benefited by this enlargement of their intercourse? Were they likely to benefit still more? Rivals in the same productions, competitors in the same markets, could we, in the long run, with our system of monopoly, stand against their freedom of trade? If we could not, were we not risking the good will and attachment of our colonies, as well as the interests of our commerce? Was perseverance in such a system politically wise, or practically safe? Was the great change, begun half a century ago, and still in progress, in the political and commercial state of the vast continent of America, from the Gulph of St. Lawrence to Cape Horn, to lead to no change in our mode of administering the extensive possessions, both continental and insular, which remained

under our dominion and protection in that quarter of the globe? Did the immense and rapidly growing commerce and navigation of the United States of America, suggest no matter for consideration, in reference to our own commercial and naval interests? These were important questions, which, in the department allotted to him in the public service, he had asked himself, as a minister of the crown, and which he now felt it his duty to recommend to the serious consideration of the committee. Recollecting that, for centuries, it had been a settled maxim of policy, in all great states having dependencies, to make the interests of those dependencies subservient to the interests or the supposed interests, of the parent state; there was, perhaps, no country where the consequences of perseverance in such a system, on the one hand, and of its relaxation on the other, could be so forcibly illustrated as in our own. In the first place let them look at Ireland, till the year 1782 a dependency of Great Britain, in the sense which he had described. It was so not only in fact, but in law, and under the express provision of a statute, entitled, "An Act for the better securing the dependency of the kingdom of Ireland upon the crown of Great Britain &c." The many other causes which contributed to keep that fertile island in a state of misery and depression he should pass by; but it was a well-known fact, that till 1780, the agriculture, the internal industry, the manufactures, the commerce, the navigation of Ireland, were all held in the most rigid state of subserviency to the supposed interests of Great Britain. In 1778, indeed, it was proposed in the British Parliament, so far to relax this exclusive system, as to allow Ireland to import sugar directly from our West India colonies, for her own use; and, in payment for such sugar, to export her own produce and manufactures (woollens excepted) to those colonies; and further, to allow her to export glass, and some other articles of her own manufacture, directly to foreign parts. What was the reception which those proposals met with in the House of Commons, and on the part of the trading and manufacturing interests of the country? In that house, the opponents of those limited concessions, enumerating the boons which had already been conferred upon Ireland, declared, that to grant any more would be fatal to the commerce and manufactures of England. And what were those mighty boons, beyond which they could not, with safety to themselves, venture to be liberal to others? Why, that we already allowed the Irish to send their beef and butter to our colonies—a permission, however, only granted from year to year, since the breaking out of the American war;—and that we further permitted them to clothe, with articles of their own manufacture, the troops on the Irish establishment, paid and provided by that country, but then serving with our army in North America. The merchants and manufacturers, the ship-owners, the country gentlemen—all took the alarm. All were to be ruined, if the proposed participation were granted to a country almost without a debt, not paying the same taxes with ourselves,—a country in which so many of the population were without employment, and where, from these causes, wages were so much

lower, and provisions so much cheaper, than in England. Resting upon these and other grounds, petitions poured in from all quarters, and the house was deterred from proceeding with the proposed measures in that session. He had had the curiosity to look back to some of the leading petitions on that occasion. The merchants of Glasgow prayed, "that neither the present, nor any future advantage should be granted to Ireland, which might, in the least degree, operate to the disadvantage of Great Britain." He quoted this sentence to show the doctrine then universally assumed—that in commerce one country could not be liberal to another; without sacrificing its own interests; and, accordingly, the good people of Glasgow, in those days, maintained, that they had an hereditary right to the sugar trade, and claimed its exclusive possession, for the people of Great Britain, as a property in which Ireland never could be allowed the smallest participation. The language of Manchester was still more decided in reprobating the proposed concession. With the loyal people of that town, it appeared to involve almost a question of allegiance. Liverpool, also, did not hesitate to predict, that, by the adoption of the proposals, "That town and port would speedily be reduced to their original insignificance." In the year 1778, a more limited concession to Ireland was proposed in the British House of Commons. It went no further than to allow the Irish to bring sugar directly from our colonies, limiting the supply to their own consumption; but even this measure was negatived upon a division. Towards the close of that year, the events of the war in North America, and the state of things in Ireland, produced a different feeling in the British Parliament. State necessity, acting under a sense of political danger, yielded, without grace, that which good sense and good feeling had before recommended in vain: and in 1782, under the like pressure, these concessions, fortunately wise in themselves, were rendered irrevocable by the repeal of the statute of the 6th Geo. I. He would not detain the committee with further details of the measures by which, since that period, all the remaining restraints on the commerce, the agriculture, and the industry of Ireland had been gradually removed, up to the termination of the Union duties in the course of last year, and the placing of her commercial intercourse with Great Britain upon the footing of a coasting trade. But he would ask any man, the most devoted to the tenets of the old school of commerce, whether this relaxation, which it was so confidently predicted would be fatal to all the great interests of Great Britain, had not contributed at least as much to augment her wealth and power in agriculture, in shipping, in commerce, and in manufactures, as it had to promote, in all those branches, the advancement of Ireland? He would ask his constituents at Liverpool, to look back to the fears which agitated the generation which preceded them—to compare with the predictions of those fears the present life and bustle of their commerce—to estimate how much of its unparalleled prosperity, unparalleled in the rapidity of its growth, was due to the freedom of commercial intercourse with that country, from the first earnest of which their predecessors anticipated nothing short of annihilation? If from Ireland they turned their eyes to those

provinces, which, little more than forty years ago, ceased to be colonial dependencies of Great Britain,—whatever they might think of the proceedings which induced them to resort to arms against the mother country,—whatever feelings might have existed, at any time, of humiliation and regret, that, by the issue of that war, those fine provinces were, for ever, wrested from his Majesty's crown, he would ask any man, whether the disavowance of the United States from the British empire, viewed as a mere question of commerce, had been an injury to this country—whether their emancipation from the commercial thralldom of the colonial system had really been prejudicial to the trade and industry of Great Britain? If the answer must be, that it had not been prejudicial, was there no useful admonition to be derived from this example?—Let them contemplate the possibility of another set of provinces, emancipated from commercial thralldom, but firmly maintaining their political connexion:—their commercial marine a part of our commercial marine—their seamen a part of our seamen—their population a part of our strength:—let them consider whether it would not be worth while to attempt a course which promised, both to those provinces and to the mother country, all the commercial benefits of a free trade together with all the political advantages of our continuing parts of one great empire, and enjoying alike, under the sway and protection of the same sovereign, all the rights and privileges of British subjects. From all the experience which could be collected from the conduct of this country, in respect to Ireland, and to its colonies; from all that he witnessed of what was passing in the colonies of other States; he came clearly to this conclusion, that so far as the colonies themselves were concerned, their prosperity was cramped and impeded by the old system of exclusion and monopoly; and he felt equally warranted in his next inference, that whatever tended to increase the prosperity of the colonies, could not fail, in the long run, to advance in an equal degree, the general interests of the parent state. Requesting the committee to bear in mind these general inferences, he would now state how far we had already relaxed the old rigour of colonial exclusion, and how much further he proposed to proceed in this career. By the acts which had been read (3 Geo. IV. c. 44 and 45), were permitted, first, an intercourse between any countries in America and our Colonies, in the ships of those countries, or in British ships; but the first of those acts required, that the intercourse, at least in the foreign vessel, should be direct from the colony to the country to which the vessel belonged, and it limited very much the articles which could be imported into the colony, according to schedules in which the articles were enumerated; and secondly, a direct trade from the colonies, in articles of their growth or production, to the ports of foreign Europe; but this trade was strictly confined to British ships, which might also carry from those ports, direct to the colonies, certain enumerated articles of foreign growth. The committee would perceive that, in allowing the countries of America to trade with our colonies in their own vessels, we had, in fact, conceded to the navigation of the United States a privilege which was not granted to any state in Europe; and this privilege, though nominally extended to all the

countries of America, was really a boon to the United States alone, as the other countries had as yet scarcely any commercial marine. What had hitherto been the return made by the United States for this indulgence? In the first session of their Congress, which followed the opening of this trade by our act of Parliament, they passed a law, imposing alien duties in their ports upon all British ships which might trade between those ports and our colonies, to be levied until the productions of the United States should be admitted into our colonies, upon the same terms and duties as the like productions of any other country, meaning thereby, the like productions not of any other foreign country, but of our own country, or of our own provinces in North America. This was a pretension unheard of in the commercial relations of independent states. It was just as reasonable as it would be, on our part, to require that sugar or rum, from our West India islands, should be admitted at New York upon the same terms and duties as the like articles, the growth and production of Louisiana, or any other of the twenty-four separate States which now constituted the Federal Union. Whatever might have been the arguments used to induce the American Congress to adopt this course, their real reason for making the attempt was, an impression on their part, that we had yielded this intercourse to necessity, and that as our colonies could not subsist without it, they might prescribe the conditions under which it should be carried on. To meet this unexpected proceeding on the part of the United States, we were driven to one of these two courses—either again to prohibit the intercourse with them altogether, or to retaliate the alien duties imposed upon British shipping, by subjecting to the like duties American ships entering the ports of our colonies. Neither of these expedients were in themselves desirable, but we preferred the latter; first, as the mildest, and because the American Government manifested a disposition to negotiate upon the subject; and secondly, because a more comprehensive measure, for giving a wider opening to the intercourse of other countries, with our colonies, was in contemplation; such a measure, as if adopted, must take away all pretext, on the part of the United States, for continuing those alien duties, and shew them, that if they did not choose to trade with our colonies upon equal terms with other countries, the colonies could do without their trade altogether. After this explanation of the mode in which the permission given to the United States to trade in their own ships with our colonies had been received by the Government of that country, he would ask the committee, independently of all general considerations, why should we refuse the like indulgence to the ships of European States? Were we more jealous of the navigation of Denmark, Sweden, Russia, Holland, or the Hanse Towns, than of that of the United States? Was it fair or politic to grant to the one what we withheld from the other? He thought that every man who understood the political interests of England, as connected with the maintenance of her naval power, must be satisfied that this could not be a wise policy; and that it would be expedient to permit the same latitude of trade to the ships of other countries, as was now allowed to those of the United States. But he went further; he was prepared to open the commerce of our co-

lonies to all friendly states, upon the same principle,—though of course with some difference in the detail of its modifications—upon which they were at liberty to trade with Jersey or with Ireland. With the exception of some articles which it would be necessary to prohibit, such as fire-arms and ammunition of war generally, and sugar, rum, &c. in the sugar colonies, he proposed to admit a free intercourse between all our colonies and other countries, either in British ships, or in the ships of those countries, allowing the latter to import all articles, the growth, produce, or manufacture of the country to which the ship belonged, and to export from such colonies all articles whatever of their growth, produce, or manufacture, either to the country from which such ship came, or to any other part of the world, the United Kingdom, and all its dependencies excepted. All intercourse between the mother country and the colonies, whether direct or circuitous, and all intercourse of the colonies with each other, would be considered as a coasting trade, to be reserved entirely and absolutely to ourselves. By this arrangement, the foundation of our navigation laws would be preserved, whilst the colonies would enjoy a free trade with foreign countries, without breaking in upon the great principles of those laws, in respect to foreign trade—that the cargo must be the produce of the country to which the ship belonged, leaving the national character of the ship to be determined by the rules which applied in like cases in this country. He proposed that the importation of foreign goods into the colonies should be made subject to moderate duties, but such as might be found sufficient for the fair protection of our own productions of the like nature. The duties already established by the acts to which he had referred, it was proposed to leave as they were, and to establish a further scale of *ad valorem* duties, varying from  $\frac{1}{4}$  to 30 per cent. upon all articles, the importation of which, from foreign countries, had hitherto been prohibited. Those duties would, of course, form part of the revenues of the respective colonies in which they might be collected, upon the same principle, and subject to the same system of appropriation by the Legislatures of those colonies, as the duties already collected, under the acts of the 3rd of the king. It was for the colonies that the benefit of these arrangements were intended; the duties would form a revenue which would be theirs, and would be carried to their account. They could, therefore, have no jealousy of the new system as one likely to trench upon their constitutional privileges in those respects. With the further view of encouraging our own trade and that of the colonies with South America, he also proposed to extend to certain ports in those colonies the benefits and regulations of our Warehousing System, as it was now established in this country, by allowing goods from all parts of the world to be bonded, and deposited in warehouses without payment of duty, till proper opportunities of selling or exporting them to advantage should occur. Looking at the present state of the countries lately belonging to Spain, this system must be attended with extraordinary advantages. The wants of those countries were numerous; they embraced almost every object of European assortment; but in the present state of society, from the want of capital, and individual credit, and from

other causes, these wants were best supplied, as it were, in retail, and by small deliveries frequently renewed. A large cargo went directly from England to any of their ports, was not easily disposed of; it glutted the market. It was desirable, therefore, that the warehousing system should be established in the ports of our colonies with which these countries could most easily and frequently communicate. The Americans had found the benefit of this mode of carrying on traffic with the late Spanish provinces from New Orleans, a port which now engrossed a considerable portion of this trade, though not so conveniently situated for the purpose, as some of the ports which we possessed in the Gulf of Mexico. It was not to be dissembled that this was a great change in our colonial system. Should it be adopted by Parliament, it would operate somewhat differently in our sugar islands, and in those extensive continental possessions, the provinces of British North America. By opening to our sugar colonies a trade with all other countries, we should afford them, in the increased competition and economy of a direct trade, a better chance of supplying their wants on reasonable terms, and of finding a demand for their surplus productions. We should accomplish, he verily believed, though not perhaps at first, the establishment of a new course of trade, as well as of a more extended system of commission and agency in those colonies. Mercantile houses would be formed in the principal ports, both to supply the wants of the colonies, and to watch, for their own speculations in the general markets of the world, the fluctuations of demand and price in those articles which the West Indies supplied. Every step in this change would contribute to introduce a greater proportion and a better description of white population, and gradually, he should hope, to diffuse a new spirit of enterprise, not only in commerce but in agriculture,—to stimulate endeavours to raise other productions—indigo and silk for instance—besides sugar, which would increase the cultivation and wealth of those colonies. On the part of the mother country, it would be wise to give every degree of proper encouragement to those new sources of improvement. They would not only add to the value of property in that part of the world, but they would gradually meliorate the moral condition of society, and, by consequence, the internal security of those possessions. It was under these impressions that he should propose, in revising other duties of customs, with a view to the relief of trade, considerably to reduce the duties payable in this country upon many of the minor productions of the West Indies, such as were generally raised by the negroes and people of colour for their own account, or by small white proprietors residing on the spot; in the hope that such a reduction, by increasing the consumption, would contribute to increase the cultivation of those articles, as well as the comforts of those classes by whom they were raised.—These, it might be objected, were but vague and speculative improvements, which might never be realized. It might be so; and if he were called upon to point out the precise mode and course of operation by which the benefits of this new system had to make their way in the West Indies, he had no hesitation to avow, that he could do no such thing. But he would remind the committee

that in 1813, when upon the renewal of the East India Company's charter, their monopoly was greatly relaxed, the wisest and most experienced men in that trade could not point out precisely, what new channels of commerce could be opened in the East Indies. Nay they denied that any new channels could be explored by the private trader, or that any benefits could accrue to India from the relaxation of the former monopoly. But new channels had been explored, new benefits had been explored; proving, as the history of all modern commerce proves, that whenever a free scope was given to capital, to industry, to the stirring intelligence and active spirit of adventure, which so strongly marked the present times, new roads were in fact opened to enterprise, and new facilities afforded to the interchange of the productions of the different regions of the earth—that interchange, of which the advantages must be reciprocal, and of which the extension to new countries was, perhaps, the surest harbinger of their improvement and civilization. He could not doubt, therefore, that the West Indies, in the course of no very great number of years, would add a new proof to those examples which Ireland and the United States had already afforded, which so many other parts of the world were now about to afford of this great commercial and political truth—that an open trade, especially to a rich and thriving country, is more valuable than any monopoly, however exclusive, which the state may be able, either to enforce against its own colonies, or to establish in its intercourse with other parts of the world. If this principle were true in its application to the West Indies, mere plantations, sugar gardens, as it were, tilled by slaves for the benefit of masters resident in Great Britain; in how much greater a degree must it be true in its application to our North American provinces, where a wider field was open, and a more natural and happier state of society prevailed? There existed, not a mere plantation, but an immense country. There was a white population, all free, prosecuting their various pursuits and avocations of life, for their own benefit and happiness, many of them born in the country, and almost all looking to it as their home, and as the home of those by whom they were to be succeeded; a population, taking all the provinces, not short, perhaps, of a million of people, and their numbers rapidly increasing. With the fertility of the soil in many of the districts, with their natural productions, their harbours, and extent of coast, both upon the ocean and their internal lakes, with their fisheries and other advantages, he could not doubt, that without any other encouragement than freedom of trade and a lenient administration, these provinces would, henceforward, make rapid strides towards prosperity;—that connecting their prosperity with the liberal treatment of the mother country, they would neither look with envy at the growth of other states on the same Continent, nor wish for the dissolution of old, and the formation of new political connexions. With a tariff of duties, accounted for to their own treasury, and moreover far lighter than those paid by their neighbours—with a trade as free, with their shipping in possession of greater privileges, themselves in the enjoyment of the same civil rights, they would not be easily moved to acts by which all these advantages



might be placed in jeopardy. Such a course was not in human nature. At any rate, let the parent state fulfil its duties with kindness and liberality. This was true wisdom, affording us, on the one hand, the best chance of perpetuating a solid and useful connexion, and on the other the best hope if—which God avert!—in the progress of human events, that connexion be ever to be dissolved, that the separation might not be embittered by acrimony and bloodshed; and the certain consolation that, however brought about, it would not have been hastened or provoked by vexatious interference or oppressive pretensions on our part. By extending to our North American colonies this participation of the commercial facilities and privileges which we enjoyed, we should unite the mutual interests, and draw closer the bonds of harmony and good understanding between ourselves and those valuable dependencies. But viewed as a question of commerce merely, he had no difficulty in stating that, without these changes, they would not be able to stand the competition of the United States. To illustrate this position he would observe, that the fisheries employed a considerable part of the population of Nova Scotia. They also afforded employment to the citizens of the neighbouring districts of the United States. In all that related to the procuring the fish, and preparing them for a foreign market, the two parties were perhaps upon an equality. But let them be followed to that market, he would suppose, for instance, the Brazils, which was one of the most extensive. Each party, it was true, had there an equal facility for selling his cargo; but the cargo once disposed of, the inequality commenced. The citizen of the United States could take, in return, any of the productions of the Brazils, and proceed with them either to his own country, or to any other part of the world; and, in the latter case, bartering them away again for the productions of some other country, finally, return with another cargo to his own. Not so the Nova Scotian. Many of the staple productions of Brazil, sugar for instance, were not admissible in the British provinces of North America. He might take these productions, it was true, to the ports of foreign Europe, with as much facility as his neighbour; but then again, if he procured a loading in those ports, he could not return home with his cargo, because it was not admissible in his own country, except directly from Great Britain. Now, it was this difference in the mode of transacting the same business, which often made the profit or loss of the adventure: and from which, among other disadvantages, it was his wish to relieve the king's subjects in North America.—Another essential relief applicable to our colonies and their trade, would be found in the abolition of the large fees now levied at <sup>most</sup> all our colonial ports. Those fees, which frequently amounted to more than the public duties, both on the ship and cargo, were levied for the benefit of certain public officers. There were in many of the islands, a fee for the governor, another for his secretary, a fee to the naval officer, to the officers of the revenue, and to several others. If a ship proceeded from one port to another, as was frequently the case, owing to the state of the markets, these fees were levied at every port. Some of the officers to whom those fees were paid, would be no longer necessary, when the commerce of the colonies would be so nearly assimilated to that of the mother

country. To the officers who were to be continued, it was proposed to give salaries, as in this country, to be paid out of the duties which they would have to collect. The details of this improvement, and the mode of carrying it into execution, appertained of course to the Treasury, and the Colonial department.—It only remained for him to state two further alterations, of a more local and specific nature. The one related to the Mauritius, and the other to Canada. The duty on Mauritius sugar, on its importation into this country, was 10s. per cwt. more than the duty on British plantation sugar. Last session he proposed resolutions for equalizing those duties; but it was then objected, that the commerce of the Mauritius was not under the same restrictions as existed in the West Indies, and that the inhabitants of that colony preferred freedom of trade to equality of duty. Upon this objection the resolutions were abandoned; but now that trade would be equally free to all, there could be no valid reason why the Mauritius sugar should not be admitted at the same rate as that of the West Indies. This island was cultivated in the same manner as the West India islands. He knew of no advantage it had over them; whilst its greater distance, by increasing the expense of freight, and its frequent exposure to hurricanes, would seem to place it under some natural disadvantages. From this diminution of duty, which appeared to him, in all fairness, due to the Mauritius, he did not apprehend that any serious prejudice could accrue to the West India planter, as the quantity of sugar grown in that island was not considerable: and, of course, what was sent to Europe must equally influence the price of this article in the general market, whether it found its way to this country or to the continent. The measure which he had to propose in respect to Canada, appeared to him no more than an act of common justice to that colony. It was simply this: to admit, at all times, the corn of that country into our consumption, upon the payment of a fixed and moderate duty. When it was considered that corn was the staple of that colony, he could not conceive a greater act of injustice, than to have declared to a part of our own empire, as much entitled to protection as another part of it, that against that staple the markets of this country were closed. How were the Canadians to pay for the supplies which they drew from this country? Was it fitting, that, when they made their remittances in this staple, they should do so, without being able to know whether it could be received here? Whether it was to remain in warehouse, unavailable and unproductive, and at a ruinous expense, for five or six years, depending for its admission into our market upon the fraction of a half-penny, according to the average price in our markets for a few preceding weeks—that average, influenced by the conflicting tricks and artifices of the home-grower and the home-dealer; the result of which could not be known in Canada for many months afterwards? When this subject was considered by the British agriculturist, it was impossible that he could view the indulgence proposed with jealousy or apprehension. That indulgence was, to allow the free import of Canadian wheat, at all times, upon the payment of a duty of five shillings a quarter. In addition to the protection of this duty, the British grower would have that of the freight

from Quebec to England, which was not less than from 12s. to 15s. more. The greatest quantity of wheat which Canada could now supply, might be estimated at not more than 50,000 quarters, but even if the importation were double that quantity, and were it to increase more rapidly than he considered probable, such an addition was not likely to keep pace with the growing demand of our population; and whether or not, he should still maintain, that the principle of the measure was one to which no fair or impartial man could possibly refuse his assent (hear, hear). He concluded by moving, "That it is expedient to amend, 1st, Several acts of the 3d and 4th Geo. IV. for regulating the trade between British America and the West Indies, and other parts of the world; 2d, An act of the 4th Geo. IV. for regulating the warehousing of goods; and 3d, That the duties imposed by the first-mentioned acts shall cease, and certain others be substituted in lieu thereof."

Mr. C. R. Ellis said, that he had heard the intimation, with respect to the intended alteration in the duty on sugar imported from the Mauritius, with some degree of surprise. Considering what passed when that measure was brought before the house last year, and the manner in which it was abandoned, he certainly did not expect it to have been introduced on this occasion; and he must request his rt. hon. friend, before he brought in his bill, to lay before the house the petition of the inhabitants of the Mauritius against placing them on the footing of a West India colony. The restrictions which were intended to be removed, had long pressed on the interests of the West India colonies, perhaps more than that of any other part of the colonies of Great Britain. When those restrictions were first proposed, they did not press very hard on the colonies, which were then in full possession of the home-market. Many alterations had, however, been since made, and, as our colonial possessions had been much extended, it was impossible to keep the trade of those colonies entirely to ourselves. It, therefore, became necessary to alter the colonial code. Those bills to which his rt. hon. friend had alluded, and on which he meant to legislate, were in consequence introduced; the one allowing a direct trade in British ships from the colonies to Europe, and the other for facilitating the intercourse between the colonies and America. He had expected much benefit from those measures, but in that he had been disappointed. British merchants did not avail themselves of the permission to trade direct between the colonies and Europe; and the West India planters found it impossible to overcome the difficulties of their situation, and to divert an old established system of commerce into new channels. He believed that not a single ship-load of colonial produce was sent direct to the continent of Europe. The reciprocity measure, with respect to America, was also inoperative. He hoped, however, in consequence of the opening of the trade now projected, that foreign countries would take their commodities to the West Indies, and exchange them there for the produce of the colonies. But the plan of his rt. hon. friend was limited by the principle of reciprocity. That principle of course confined it to those

countries that would be disposed to adopt an equally liberal policy. Some of the states of Europe might, therefore, be excluded. They might be unwilling to alter their present colonial system. A very good commercial treaty had been negotiated, for instance, with Denmark; but at the foot of it was placed an intimation, that it did not extend to the colonial trade of that country. His rt. hon. friend's scheme was also connected with certain protecting duties. What the effect of them would be he could not say, but that must depend on their correct application to particular articles. After the experience this country had had of the effect produced by protecting duties, with reference to the produce of Canada, and in checking the intercourse with the United States of America, he trusted his rt. hon. friend would not be altogether so sanguine in the success of the present measure. He should be sorry to say any thing ungracious on this occasion; he would not make any objections to the alteration proposed by his rt. hon. friend, which was unobjectionable in principle, and which, he was sure, was intended to do good. He would much rather look at the other side of the picture. With respect to the West India islands, their geographical situation adapted them peculiarly for a convenient entrepôt for all our manufactures. Vessels often proceeded to those islands from England almost in ballast, which, under the new system, need no longer be the case. Commerce, it was well known, would attract around it every species of industry; and this beneficial alteration in the colonial code might be the means of creating a white population, and of extending cultivation to many other articles besides those now produced in the West Indies (hear, hear).

Mr. Baring said, that, looking at the proposition as a whole, viewing it with that liberal feeling which it deserved, he was quite sure, that the more it was considered, the more satisfaction it would give (hear, hear). He was one of those who would not willingly injure the West India interest; but he thought that, when the hon. gent. (Mr. Ellis) expressed a belief that the introduction of sugar from the Mauritius would injure the West India planters, he was in error. He saw no reason for excluding the Mauritius from the operation of the rt. hon. gent.'s system. It was a colony belonging to this country; the cultivation of sugar was carried on as it was in the West Indies, and the cultivators at the Mauritius had a right to claim the boon on the same grounds that it was extended to other colonies. He was extremely anxious to see the further development of the rt. hon. gent.'s plan with respect to the proposed alterations as to the European part of the system, and particularly that which related to the importation of corn. He did not wish to see the protection which it had been found necessary to afford to the agricultural interests reduced below that which they had enjoyed before the present restrictive measures were adopted; although it must ever be a matter of regret to all persons who were well acquainted with the subject, that any such protection had been granted. Still he should be sorry to take away, on any principles of political economy, however he might be convinced of their soundness, that protection which had now been so long enjoyed, and had grown to be so much a part of the system, that the persons interested in it would have a fair right to claim its conti-

\* This speech is chiefly republished from "The Substance of Two Speeches, &c. by Mr. Huskisson:" London, Hatchard, 1823.

nuance. But it was not, he apprehended, at all probable that any large quantity of corn could be imported to this country from Canada. He was desirous of knowing whether the rt. hon. gent. intended to equalize the duties of Upper and Lower Canada. From their natural situation, all the import and export trade must be carried on through Lower Canada: the people of Upper Canada were therefore at their mercy, and must pay any duty which they chose to put upon the importation of goods. He was sure this would not escape the attention of the rt. hon. gent. He rejoiced in the opportunity of expressing the satisfaction he experienced from the detail of the rt. hon. gent.'s plans, which he had no doubt would be as beneficial to the country as they were enlightened and liberal.

Sir F. Burdett rose for the purpose of expressing the gratification he felt at the new and liberal view which was taken by his Majesty's ministers, of subjects which involved the most important interests of the country. He hoped that they would not suffer any timidity to deter them from carrying the principles which they had avowed into full execution. He was sure that there was no reason for any such apprehension, and he did not doubt that upon this subject, the general opinion and confidence of the country was with them. He trusted that the principles would be acted upon to the greatest practicable extent in the colonies, and that they would be allowed the full enjoyment of all the advantages which could be derived from their own labour, and ingenuity, and enterprise; not fettered by restrictions which curtailed those advantages, but left at full liberty to pursue their own works in their own colonies, and to send their produce to this country as they might think fit. Every body knew the disadvantages which the West India proprietors laboured under in being compelled to send their sugars to the British market in a raw state. Upon no sound principles of commercial policy could such restrictions be maintained, and he hoped that in future all the benefits to which they were fairly entitled, would be ensured to the colonists. With respect to the importation of corn from Lower Canada, that measure, he believed, would be almost universally approved of. The real principles of national policy were now better understood than they had been at some former periods, and those persons who were most interested in this subject, had now found that their interests required no monopoly, nor any other advantages excepting such as they would of necessity enjoy from the command of the home-market, and their not being subject to the expense of freight and other charges to which foreign corn was inevitably liable. He hoped that the same principle would be applied, not only to the corn of Canada, but of every other country, and that a free trade in corn would be established with all Europe. Unless this were done, he was convinced it was impossible that the trade of the country could be extended in the manner it ought to be; for it could in no way be advantageous to the country that the interests of any class of men should be bolstered up by exclusive privileges. The public mind was now too much enlightened, and saw too clearly the general interests of the country, to permit any of those obstacles which prejudice or misapprehension might in other times have given rise to, to impede the completion of the rt. hon. gent.'s project.

Dr. Lushington said, that since the Mauritius was to be placed on a footing with the West India islands, he would ask upon what principle the same advantages were still denied to the East Indies? He put this question, not, as it might be pretended, from a wicked intent to reduce the West Indies, but upon the obvious and undoubted principles of political economy. When he and those who thought with him on this subject expressed their desire to alleviate the wretched condition of the slaves in the West Indies, it was said, that the measures which they proposed would have the effect of increasing the distress which was already too burdensome upon the proprietors. He was, however, inclined to believe that the distress of those proprietors was chiefly to be attributed to their residence in this country; and that the misery of their slaves was another consequence of the same cause. These absentee cultivated their West India estates by means of agents, who were actuated solely by the desire of procuring large crops for the immediate benefit of the proprietor, without any regard to the ultimate condition of the estate. The difference between the condition of slaves on the estates of resident proprietors, and those who were under the control of their agents, was a sufficient proof of the truth of this statement. Whenever any attempt was made to improve the condition of the unfortunate beings who formed the population of the former colonies, it was invariably opposed by those gentlemen in the house who were connected with the West Indies, and who did not scruple to assign motives to those by whom such attempts were made, which, to say the least of them, were wholly unfounded (hear, hear, from Mr. Gordon). His hon. friend, who so loudly cried "hear," on a former occasion when this subject had been brought before the house, got up with so much vehemence, that he seemed ready to devour all who were near him. He did this, because, being himself a large West India proprietor, he could not endure to hear any thing which even seemed to interfere with the state of things in the colonies, and to alleviate the sufferings of the slave population. He could not help doubting the judgment, although he could not suspect the heart of his hon. friend, when he found him opposing a measure which was calculated to do away with an immense mass of evil which disgraced our West India colonies. For his own part, and for those who thought with him on this subject, he repudiated with disgust and indignation the imputation that they were actuated by any feeling of hostility towards the West India proprietors. On the contrary, he thought they were entitled to the benefit which was about to be conferred upon them, and he hoped it would be as useful and as advantageous to them as it was expected to be. Notwithstanding the contumely with which they had treated the British Parliament, he hoped that the spirit of animosity by which they seemed to be influenced would subside—that they would listen with a patient ear to the admonitions of the legislature, and not drive it to the adoption of those measures which were called for upon every principle of justice.

Mr. Gordon rose for the purpose of replying to the observations of the learned gent.—observations which the usage of Parliament hardly justified him in using. He did not know to what particular occasion the learned gent. alluded, but in his own name

and in that of all the other West India proprietors in that house, he threw back the assertion that they had endeavoured, by their influence in Parliament, or elsewhere, to interpose any obstacle to the amelioration of the condition of the slave population of the colonies. It was very easy for a person like the learned gent., who was in the constant habit of addressing public assemblies, to throw out insinuations against him and other hon. gentlemen, who might find it difficult to reply with equal fluency to a charge so unjustly made. He had, however, felt it due to himself to seize the first opportunity of denying altogether the truth of that charge, and of vindicating himself from the imputation which had been cast upon him (hear, hear).

Mr. *Cust Grant* repelled the charge of the learned gent. respecting absentees. He had reason to know that the persons who managed their estates by means of agents were not wanting in attention to the condition of the negro population, and that they were not by any means anxious to procure greater crops than their estates could fairly produce.

The resolutions were then agreed to.

A bill founded on these resolutions was subsequently introduced, entitled, "A Bill for further regulating the trade of His Majesty's possessions in America and the West Indies, and for the warehousing of goods therein."

MONDAY, JUNE 6.—On the motion for the third reading of the bill, some complaint was made that its provisions were at variance with the principles in Mr. *Huskisson's* speech \*.

Mr. *Huskisson* denied the alleged inconsistency, and observed, that there was not a single article which, under this bill, might be imported into the West Indies, on paying a certain duty, that was not obliged to pay a duty on entering the United Kingdom. If, therefore, he placed the colonies on a footing with the United Kingdom, he could see no fair ground for complaint. He contended that he had redeemed his pledge, when, with respect to all matters of commerce, he placed the colonies in as favourable a situation as that in which Great Britain stood in her intercourse with Ireland.

The bill was then read a third time and passed.

LORDS, THURSDAY, JUNE 14.—Earl *Bathurst*, in moving the second reading of the Colonial Trade bill, stated the object of the measure, which had already been explained in the debates in the House of Commons. After describing the dispute which had arisen with the United States on the subject of trade with the British colonies, he observed, that in all former measures for regulating the colonial trade, prohibition was the rule, and admission the exception; whereas, in the present bill, admission formed the rule, and prohibition the exception. Besides the regulation of the colonial trade, the extension of the warehousing system was another object of this bill. There were certain articles which after regulation could not be exported without paying a duty imposed for the protection of British trade; but it was not thought necessary that this protection should any longer exist. Warehouses might therefore be established on a more extensive system than the former state of the law authorized. Their

lordships would observe that this was a complete abandonment of what had hitherto been regarded as the English colonial system; but it was an alteration which the changes in the political and commercial relations of other nations with respect to this country required. It could no longer be said that we placed our colonies in a worse situation with respect to trade, than the United States. The colonies would now not only enjoy the same advantages as the United States, but colonial vessels would be entitled to all the advantages of British ships. They might now trade between one colonial port and another; they might trade between any port of the colonies and this country; they might trade to other countries; and they might trade from one port to another in this country. In short, the colonies were now placed in the same situation with respect to trade as if they formed parts of the mother country. The changes which Europe and the new world had undergone had naturally produced this change in our colonial system. Whether the states of America which had recently separated from their European connexion would make the same stupendous progress with those which had set them the example, remained to be seen. They were still exposed to warfare, and the contest in which they were engaged might be continued; but in the midst of that warfare they presented to other countries the advantages which were to be derived from neutral trade.

The Marquis of *Lawnsdown* said, that he felt great satisfaction at seeing this measure brought forward—not merely because he had long entertained the opinions which it was at last proposed to sanction by the authority of parliament, but because it did so happen that he himself had endeavoured to carry the same principle into practice. He had, not in that, but in the other House of Parliament, recommended a more liberal intercourse between our colonies and America; and now, after the lapse of no less than 19 years, that course was about to be adopted. The measure which he recommended was, indeed, compared with the present, weak and partial; but, feeble and inefficient as it was, it experienced an uncommon degree of hostility. It was the subject of repeated divisions in Parliament, and out of doors became a watchword for clamour and opprobrium. The friends and present supporters of the noble earl (*Bathurst*) cried it down, not only because, as they said, it was favourable to neutrals, but because it evidently led to that freedom of intercourse which Ministers now took credit to themselves for establishing. Nothing was then more alarming than that which was now, in the opinion of the noble earl, most just and politic. "Oh, new, and dreadful thought! To let the colonies trade with other powers of Europe! What an abomination!"—were the exclamations with which his proposition had been met. Now, however, the noble earl at last came forward to lay the axe to the root of that system which had been hitherto so pertinaciously maintained. Their lordships must now perceive that if they wished to retain the colonies, the best way would be to render them, as far as possible, capable of engaging in every kind of trade, and susceptible of every advantage which would be open to them as parts of this country. He was aware, that upon whatever principle they proceeded with respect to the colonies, it was still possible that a crisis would

\* *Ante*, p. 286.

arrive, that a separation might take place; but it was their duty to try to avert that event, and to endeavour to retard it to a distant period. At the same time, while they were sensible that it could not be prevented, they ought to make provision that when it did occur, it should take place with circumstances as little painful, with a contest as little bitter, and leave behind it recollections as little disagreeable as possible.

The Earl of *Liverpool* said, that with regard to the measure which had been introduced on on this subject, when the noble lord (the Marquis of *Lansdown*) was Chancellor of the Exchequer, he had felt it his duty to oppose it, because he thought that the time and circumstances in which it was brought forward were unfavourable to its adoption. Now, however, circumstances were much changed. South America had nearly effected its entire independence; and when that was once established he admitted that our colonies ceased to exist as such, but should for the purposes of commerce be considered and treated as integral parts of Great Britain, as much as London, or Liverpool, or any other town in this country. By treating them on that footing, we secured their attachment; and if at any future time they should be separated from us, their separation would thereby be rendered much less dangerous. The bill before their lordships could not be looked upon as an infringement of the navigation laws. It allowed foreign ships to bring to the colonies only the produce of their respective countries, and take back to their own countries the commodities of the colonies; but it did not in any case admit such ships to any part of the carrying trade, so as to take the produce of the colonies between nations to which such ships did not belong.

The bill was ordered to be committed on Thursday.

### *Waste Lands in Canada and Van Dieman's Land.*

COMMONS, THURSDAY, MAR. 15.—Mr. *W. Horton* moved for leave to bring in a bill for the sale and improvement of waste lands in the province of Upper Canada. It would, he thought, be universally admitted, that nothing could be more desirable than to facilitate, by a proper application of capital, the colonization of the waste lands in Canada; and for the particular purpose now recommended, it was intended that certain grants should be made to an incorporated Company upon a valuation of the particular lands required by them in the development of their local plans. The arrangements were to be carried into effect by two commissioners appointed by the Crown, and two by the Company, with conjoint power to decide in such doubtful cases as came before them respecting the purchase of the lands; and the basis of the general value was to be taken from that recognized in the purchase of the other adjacent waste lands. The Company were to agree to pay the Government 20,000*l.* a-year upon being put in possession of particular lands; and the amount so paid was, in the first instance, to be applied to the local expenditure of the colony, which had hitherto been defrayed by the Treasury at home. The commissioners had proceeded to the colony, but sufficient time had not elapsed to allow of their

making a report. The details of the measure, however, would be more intelligible when the bill was printed and presented to the house in due form.

Mr. *W. Smith* rose to suggest that proper precautions should be taken to prevent the Indian tribes on the borders of the new incorporation from being prejudiced by the settlers. In New Brunswick and Nova-Scotia, great injustice had been done to the Indians, which he hoped would be avoided in the present instance.

Mr. *W. Horton* had the most perfect confidence that no danger of the kind would be incurred on the present occasion.

Mr. *Hume* expressed his regret that five years ago, when he had strongly recommended a change in the colonial system, some proposition of this kind had not been made. He had said then that emigration to Upper Canada was checked by many oppressive circumstances, and especially by the enormous fees demanded of the emigrants. He could now support the arguments which he had used five years ago by the official returns since received from Canada, which showed that of 39,000 emigrants who had gone out thither, only 100 families had been able to obtain a footing on the waste lands; so that the great bulk were deprived of the benefit held out to them in the first instance. If the present bill were calculated to amend the vices and errors which were the reproach of the hon. gentleman's predecessor in office, it should have his approbation. For the last fourteen years the colonial system had been a disgrace to the government; so much so, that if the House of Commons were in a state of tolerable purity, he would not hesitate to impeach Lord Bathurst for a breach of duty, and to move an address to the King for his dismissal from the colonial office. The mal-administration of the noble lord was not confined to Upper Canada, it extended to the Ionian Islands, the Cape of Good Hope, and the other settlements. Let them look, for instance, at the Cape, where the most glaring injustice was daily endured—whence British subjects were transported to Botany Bay, under circumstances of aggravated oppression, and where complaints were daily made, which called loudly for redress. Respecting the present bill, he was anxious to know whether it was intended to grant to the new company all the Crown reserves and church returns without qualification? Did they mean to sell the land, and leave the new purchasers to retail it at their own prices? If they did, they were likely to create a private monopoly, as injurious as the previous system. This should be explained in the first instance.

Mr. *M. Fitzgerald* said, that he could not concur in what his hon. friend had said respecting the abuses under the late system of emigration; for he knew that many of those who had emigrated from the south of Ireland, a part of the country with which he was acquainted, had written in the highest terms of their treatment, by the Government agent; and, as a member of a committee, he could further speak from official documents of the improved condition of the new settlers within the last two or three years.

Mr. *Gordon* defended the character of Lord Bathurst from the severe and harsh attack of the hon. gent., which was the more singular, from its being made at the same moment he approved of this bill. His great complaint ap-

peared to be, that this bill had not been brought forward five years ago, without knowing whether there was at the time he spoke of, either capital or private enterprise to promote such an undertaking. The appointment of official heads of colonies belonged to the Government generally, and Lord Bathurst had no right to be rendered particularly responsible for individual errors, if they had arisen in such appointments; at all events, he was sure the noble lord carefully attended to all the details of colonial business.

Mr. Bright approved of the plan. He thought, however, that it ought to receive the sanction of the local authorities, before it was decided upon by Parliament, and recommended some precautions against the danger of a monopoly of the land by the company.

Mr. Baring said, that upon the general question he was of opinion that they could not look upon these colonies as likely to remain permanently in their present relative situation with this country. They were chiefly agricultural, like ourselves; and all experience showed that no colony would long retain that peculiar relation with its mother country, when the productions of both were similar. The question then arose, and it was a very important one, how far it might be wise and dignified for a country like Great Britain to do early and liberally that which she might be compelled to do a few years hence, in a very different manner. It was time for Government to consider at what period of maturity they would be fairly and honourably ready to allow the colonies the benefit of a separate system. He admitted that this was a bold but a pressing consideration, which in the nature of things ought to govern the principle of the projected arrangements. The object of the present bill was partly to encourage colonization by locating emigrants upon these waste lands—to invest certain privileges in the hands of a particular company, who were to pay a large sum for these waste lands. To indemnify themselves, the company would raise the price upon the emigrants; how then, would this encourage colonization in the way held out? He would rather, he confessed, have the whole put under the management of the local legislature, who would be best prepared to meet and grapple with any contingent difficulties. It was the way, too, to give them that confidence in themselves which might hereafter enable them to support our empire, and repel the attacks which might be made upon it, at no great distance of time. A further means of preventing the new company from holding their monopoly without making any attempt to clear and cultivate their lands, would be to provide that all the lands which should remain unsettled after a certain number of years, should revert to the crown.

Mr. W. Horton replied. In Upper Canada there was an indefinite extent of lands, capable, under cultivation, of absorbing the largest population contemplated by any gentleman in the house. The object was to bring considerable portions of this land into immediate cultivation by the capital of a company, under regulations dictated by this government. As to the security proposed for bringing the lands into cultivation within a certain time, that was already taken. This was no measure of monopoly. There were abundant allotments of the lands in the possession of private individuals. Government was not to be charged

with inducing emigration. The states of Canada were not in want of population. Labour could not command a price as in the United States; but capital was most materially necessary, and this measure would facilitate the transfer of it. He must revert for a minute to the general charge made against the Colonial Department by an hon. gent. (Mr. Home): he could not separate the parties implicated—the charge was against the whole establishment. Why did not the hon. gent. make it more specifically against some one member of administration, as he was bound to do, rather than indulge in vague clamour and idle declamation? He claimed, on the contrary, for the Colonial Department, and the noble lord at the head of it, a full proportion of that approbation with which the anxious labours of all departments in the Government were rewarded, in their zeal to remove obstacles and embarrassments laid upon the colonial and mercantile interests by the supposed wisdom of our ancestors. At any rate, he wished that the hon. gent. would give him by a specific charge, a specific opportunity for justification.

Mr. Hume: It was hard for him to be charged with idle declamation and indefinite abuse, for the house could not forget that season after season, for the last five years, he had brought forward specific motions on the conduct of the colonial governors, and the neglect of the colonial office.—Leave given to bring in the bill.

Mr. W. Horton then obtained leave to bring in a bill similar to the foregoing, for the enclosure and cultivation of waste lands in Van Diemen's Land.

### *Mauritius Trade Bill.*

TUESDAY, MAY 17.—Mr. Haskisson moved that the house should resolve itself into a committee, on the Customs' Consolidation bill. The object of the resolution he was about to propose was to put the colony of the Mauritius on the same footing as those of the West India Islands, and that the same duties on goods imported and exported should be paid in the one as in the other settlement. In reply to several complaints respecting the Mauritius Slave Trade, he observed that the returns on that subject would soon be printed, and that an opportunity would occur on the General Consolidation bill for discussing this point; but he thought there was no occasion for postponing the resolution which he now submitted, as some hon. members wished to do.

Sir R. Fergusson said, the papers that were ordered to be printed contained the most convincing proofs, that since early in the year 1820, no slave-trade had been carried on in the Mauritius. In regard to the rumours on this subject, they were common to the West India Islands for many years after the abolition; but he felt satisfied that there was no more truth in them respecting the Mauritius, than there was with regard to the West India Islands. He had no hesitation in vouching, in the most solemn manner, that there had been no slave-trade in the Mauritius for the last five years at least; and in making this assertion, it was most gratifying to him to be borne out by the most satisfactory letters, both public and private, to the Secretary of State, from his gallant and hon. successor, who would disdain to lend his authority to the fancied existence of such prac-

fices, merely for the purpose of obtaining the credit of having suppressed them, and he therefore hoped that a measure equally called for by justice and good policy, would no longer be deferred, and that the inhabitants of the Mauritius, after all their losses, and the disappointment of their just hopes and expectations—more especially in this house last year, when the bill for the relief of the Mauritius had undergone two readings—would not be debarred another day from the full benefit of the proposed measure.—In reply to an observation of Dr. Lushington's, respecting the landing of some slaves from a French vessel at the Mauritius, he observed that the case alluded to was that of a French vessel from Mozambique, which intended, as it was thought, to make a depot of slaves for Bourbon in one of the uninhabited islands of the Archipelago, to the north-east of Madagascar; but there was no landing, and the vessel was intercepted close to one of those uninhabited islands, by the exertions of Capt. Moresby. He put it to the candour of the learned gent. whether this could be construed into a slave-trading with the Mauritius.

The resolutions were then agreed to, and a bill founded upon them was afterwards introduced.

FRIDAY, JUNE 3.—Mr. W. Horton moved the second reading of the Mauritius Trade bill.

Mr. Bernal observed, that by this measure it was proposed to place the Mauritius sugar on the same footing with that of the West India colonies. It was contended that this measure would not injure the West India planter—first, because the distance of the West Indies from this country was so much less than that of the Mauritius; and next, because the quantity of sugar grown in the latter colony was inconsiderable. But he wished to hear better arguments in favour of a departure from the present system. It appeared from papers on the table that an illicit trade in slaves had been carried on in the Mauritius up to the year 1821. Now, this being an admitted fact, he could see no reason for granting the benefit now proposed. Such a measure was very hard towards the colonists of the West India Islands, who had done their utmost to discourage the slave-trade, and who had appeared most anxious to cultivate their estates by the labour of Creole slaves. The importation of slaves into the Mauritius had continued for a period of ten or twelve years in despite of its prohibition by law. Even at the present moment an armed vessel was constantly cruising in the straits of the Seychelles, which lay to the east of the island, in order to prevent that traffic. This circumstance proved their anxiety to prosecute the trade; and formed a reason for not granting the boon which would be conferred by passing this bill. Another reason for not treating those persons as they treated the colonists of the West Indies was, that the former being considered as coming under the protection of the East India Company's charter, had enjoyed all the benefits of a free port for four or five years. But they were not content with that; they turned round to government and said, "We wish ourselves to be placed on a footing with the West India Islands." He must, however, say that he could not conceive why sugars should be suffered to come from the Mauritius on the same footing as from the West Indies,

when East India sugars generally were prohibited. These were points which called for the serious attention of the house; and he called on the rt. hon. gentleman to explain on what ground he introduced this measure.

Mr. W. Horton said, that at the time of the capture of this island, it was stipulated that it should be placed on the same footing with the other colonies of Great Britain; and the present measure was no more than the fulfilment of that stipulation. The circumstance of the Mauritius being within the limits of the East India Company's charter, was merely an accident, of which he conceived advantage ought not to be taken, for the purpose of imposing the East India rate of duty on the sugars of the Mauritius, especially when it was considered that those limits extended to the Straits of Magellan. Its claim to a remission of the duties was to be decided on the plain question—whether or not its situation entitled it to all the privileges of the other colonies. Cogent reasons might be alleged in defence of the imputed inconsistency of the present and former pretensions of the island, with respect to freedom of trade. In consequence of the order in council of 1816, connected with several local circumstances, the inhabitants found it necessary to abandon the free port, and, as they had a right to do, to adopt the alternative which was embodied in the measure now before the house. The hon. gent. had stated that slaves had been introduced into the Mauritius, and that it would be unjust to those who had opposed the slave-trade if any favour were shown to men who supported it. This assertion must be decided by facts; and if the hon. gent. would look at the papers, he would find that, for years, the trade had not existed; and that even prior to 1821, it was not carried on to any great extent. An armed ship certainly was stationed in Seychelles-straits; not, however, for the prevention of the slave trade in the Mauritius, but for the prevention of the slave trade generally.

Mr. R. Ellis said, this question had been settled at the period of the peace; and if some special cause were not assigned for the proposed alteration, he conceived that the decision which had then been come to ought to be abided by. The hon. gent. then referred to the papers before the house, and also to the correspondence contained in the reports of the African Society, for the purpose of showing that the slave trade was carried on to a great extent in the Mauritius; Sir R. Farquhar's success in extirpating the Mauritius slave trade, was not owing to the co-operation of the inhabitants, but to his treaties with the native princes. What, he asked, would be the effect of this measure on the West India planters, who had abstained from that illegal traffic, when they saw the inhabitants of the Isle of France, who wise in their day and generation, had carried on the trade in spite of law, rewarded by Government at their expense? It could not be other than injurious; and for this, as well as other reasons, he should oppose the bill.

Mr. Huskisson said that in the last session it had been proposed to reduce the duty on Mauritius sugar; but the answer of the West India interest had then been, that the Mauritius enjoyed commercial advantages in which the West India islands did not participate. That plea was now taken away; the restrictions which had operated upon the West India islands, and which did not affect the Mauritius, had

been removed; and both interests being now, as regarded commercial advantage, on a footing, a new ground of objection must be taken to the reduction of the Mauritius duty. Accordingly, the opposition at present made to this reduction was of a different description—it was alleged that the colony of the Mauritius had carried on an illicit commerce in slaves. But this allegation, as it applied to an existing trade, was not supported by fact. Prior to 1820, some smuggling of slaves had taken place; but, according to the best evidence before the house, that practice continued no longer. Then the Mauritius must be judged, not according to what it had been, but according to what it was. Now he must say that, from all he could collect from Mauritius, that the proprietors all resided on their estates and that their slaves were consequently treated with more indulgence than in any other of our colonies (hear, hear). The whole question as affecting the West Indian interest—and on that ground the bill was really opposed, amounted to this, that a small quantity, say 12,000 hhds., of sugar might be thence imported into the English market. But if it did not come here, it would come into the European market, and would have the effect, from its cheapness, of determining the general price. He would also observe to the West Indians, that whenever their supply exceeded the demand in England, its excess, which must go into the European market, would produce the same effect—and destroy the West India monopoly (hear, hear).

Sir R. Fergusson said that he naturally felt a strong interest for a colony which he had himself so long administered. In 1810 he was present at the conquest of the Isle of Bourbon, when proclamations had been distributed to the inhabitants which promised them not only the advantages they enjoyed under France, but the pre-eminent advantages of British colonists. The promises held out to them were free trade and the fullest protection to the produce of the island in the mother country. But how had those promises been fulfilled? They had lost the extensive trade they formerly possessed, and their produce met with no protection. The order of Council issued in the year 1816, giving to those colonies a free trade, was accompanied with so many restrictions, that, coupled with the prohibitions which were placed on it in the ports of France, it was a perfect nullity. The fluctuations which followed therefrom destroyed all the confidence of the merchants; and the inhabitants, being thus deprived of the benefits of free trade, naturally became agriculturists, and, owing to the hurricanes, which destroyed the other plantations of the country, cultivators of sugar. Bourbon being separated from the Mauritius by the treaty of Paris, enjoyed all her ancient advantages, and the contrast of such prosperity with the depression of the Mauritius naturally tended to excite discontent and alienate the affections of the people of the latter island. The Mauritius was thus sacrificed to European and Indian policy, whilst, on the ground of interest, expediency, and justice, it ought to enjoy all the advantages of the British sugar colonies. He contended that no slave trade existed at present in the Mauritius, and the slave trade which had prevailed there some four or five years ago had been carried on by

some renegadoes, who had lived by privateering during the war, and not by the respectable inhabitants of the colony. He showed, by reference to different abstracts of the slave population, that it had not increased during the conquest of the island, and inferred, from all these reasons, that there was no ground, save that of *sic volo, sic jubeo*, for opposing the proposition now suggested in favour of the trade of the Mauritius.

Mr. Gordon would have no objection to vote for the bill, if it were postponed to the year 1828, in order that it might be seen in the interim how far it would affect West Indian interests.

Mr. Plummer moved, as an amendment, that the bill be read this day six months.

Mr. Hume trusted that the house, now that it was only doing an act of justice to the Mauritius, would also take into its consideration the state of the West India colonies.

For the bill, 37—Against it, 14—Majority in favour of it, 23.

MONDAY, JUNE 6.—Mr. Huskisson moved the order of the day for a committee on the Mauritius Trade bill. In answer to a question from Mr. Bernal, with regard to the importation into the Mauritius, of foreign sugars, he observed, that, as an effect of the general Colonial Trade bill such sugars could not be admitted into the Mauritius.

Mr. Bernal (and, subsequently, Mr. Gordon) then observed, that should the Colonial Trade bill not pass, that intention could not be gathered from the present bill. He suggested that a few words should be inserted in it to avoid the possibility of mistake.

Mr. Huskisson said, that the objection was merely technical (hear, hear). The hon. gent. and his friends had themselves demanded the separation of the present measure from the general Colonial Trade bill. They must be aware that it would shortly merge in the provisions of the latter bill.

Mr. Bright was bound to suppose, if the rt. hon. gent. would not put in the few words that had been suggested by his hon. friend, that he was at least prepared with other words to answer the same purpose. But if that rt. hon. gent. was not so prepared, let him at least afford the house some clear and specific grounds for declining to insert those which had been just suggested. As for waiting to determine matters of this kind in one bill, by the terms of another, he should have thought that the house had had reason enough already to regret the time and labour which it cost them to remedy bills that had been passed in a similar manner, without desiring to add this to the list (hear). It seemed as if the object were really to mislead the house.

Mr. Huskisson was almost inclined to say that the hon. gent. who had just spoken, appeared to be inclined wilfully to misstate his words. When the hon. gent. imputed to him a design to mislead the house on this or any other question, the house, he trusted, would do him the justice to believe that he was quite as incapable as the hon. gent. himself, or any other hon. member, of doing any such thing (hear, hear). To him, he confessed, the language of this bill was perfectly explicit and intelligible. If sugars were allowed to be imported into Jamaica, there could be no reason, upon the



principle of the present bill, why they should not be allowed to be imported into the Mauritius also; or why, if they were to be excluded from the Mauritius, they should not be equally excluded from the West Indies. The fact was, that as far as depended upon him, no foreign sugars should be imported either into the Mauritius or any of the West India Islands.

Mr. *W. Horton* said, the language of this bill was very clear. It was to this effect—"That all articles being the produce of the island of Mauritius, or the growth thereof—and all colonial produce, goods, and commodities that shall have been imported into the island of Mauritius (hear, hear), shall be put upon the same footing as all such colonial produce and foreign commodities imported into Jamaica under the existing law." And that existing law prohibited the importation of foreign sugars (hear, hear). Why, then, it did appear to him that the plain intention of this bill was to declare, that the trade of the Mauritius should be put on the same footing with that of Jamaica, or any other of the West India Islands. The hon. gent.'s objection, however, was, that prohibited foreign goods, such as sugars, might, under the present terms of this bill, be imported into the Mauritius, add through the Mauritius, into the United Kingdom, to the great detriment and prejudice of the West India produce. But he must contend, that if that were the fact, then the same observation must apply equally to Jamaica (hear, hear).

Mr. *Bernal* was sorry that the right hon. gent. (Mr. *Huskisson*) had taken up his remarks in the light he seemed to have done. He utterly disclaimed mere technical objections. The objections which he had taken tonight, he certainly had understood that right hon. gent. on a former night to have admitted. He still contended that the security he wished to have introduced did not exist in this bill; and that, on the contrary, if the former measure should be lost, the framing of this would be found to be excessively defective. There was in its present condition this real and visible defect—that sugars might be imported from China, or from India, into the Mauritius, and from thence into the United Kingdom.

Mr. *Huskisson* observed, that the general principle on which Government proposed to act was to open the trade of all the colonies, but to provide at the same time against the introduction of foreign produce, by prohibiting importation through the colonies.

Mr. *Gordon* thought that, in common fairness and candour, the operation of this specific measure ought to be restrained, until the West Indians had had time to reap some advantage from the effect of the former bill—say for a year and a half.

Mr. *Ellice* could not concur with his hon. friends near him in their opposition to this bill; and he entreated them not to throw needless impediments in the way of that liberal and enlightened colonial policy which his Majesty's government were now pursuing so honourably to themselves and so beneficially for this country.

Mr. *T. Wilson* could not concur in the opinion of his hon. friend who had spoken last. The cases of the Mauritius and the West India Islands stood on very different grounds. The sugars from the Mauritius were not sent home by planters, but by merchants and supercargoes

who bought them there as return cargoes for ships sent thither with goods for the island trade. When the sugars were bought there, they were bought, therefore, and came to England, under the idea that they would not be allowed to be imported for home consumption.

Sir *R. Fergusson* knew very well that of late the planters of Mauritius had sent home their own sugars for sale in this country (hear). He must also observe, that the Mauritius had a very powerful claim on this country, in consequence of the expectations that were held out to it during the last year, when the Mauritius Sugar bill was read twice, and subsequently thrown out. Those expectations had been of course disappointed.

Mr. *Huskisson*, after what his hon. friend had just stated, and considering the great distresses to which this island had been so frequently reduced by natural causes, such as violent storms and hurricanes, could not accede to the proposition of the hon. gent. opposite. Last year he was met with the objection that some restrictions existed in the trade of the West India Islands that did not apply to that of the Mauritius. At the time he did not attach any great weight to the objection, and now he was confirmed in the resolution, not of superadding restrictions on either, but of removing them as much as possible from both (hear).

Mr. *Plummer* denied that any pledge had been given by this government in favour of the Mauritius. It was fallacious to suppose that the introduction of the sugar of the Mauritius would not be prejudicial to the West Indies, when it was admitted that there was a large surplus produce of those islands on hand.

The house then resumed, and the report was ordered to be received to-morrow.

### *Sierra-Leone.*

TUESDAY, APRIL 14.—Mr. *Hume* moved for a return of the past and present expense of Sierra-Leone, and the liberated negroes there, when

Mr. *W. Horton* suggested that as the hon. gent. would, no doubt, make a statement of some length, it would be better for him to move at once for the papers, and bring forward a specific motion at a future day. It could not be proper to introduce the matter in so thin a house, and during the absence of the Sec. for Foreign Affairs.

Mr. *Hume* was willing to accede to this proposition, provided an early day were appointed for the discussion of this question, which he regarded as very important, since he hoped that some millions might be saved for the time to come, if the line of policy should be adopted which he intended to propose.—On Mr. *W. Horton*'s statement that part of the information sought for was received and the rest speedily expected, Mr. *Hume* agreed to postpone his motion in the hope of a fuller attendance of members.

THURSDAY, MAY 26.—Mr. *W. Horton* wished to ask Mr. *Hume* what course he intended to pursue with respect to his motion on the subject of Sierra-Leone. The information sought comprehended a variety of subjects, and was not at present in possession of Government. They were about to send out a commission to the colony for such

further returns as were required to complete the papers moved for. Under these circumstances he wished the hon. gent. not to delay the other business of the house by a fruitless motion, but to suspend the discussion till perfect information had arrived.

Mr. *Hume* said, that his wish to go into detail on this subject arose from his conviction that neither the house nor the country were well acquainted with the nature of it; nor with the facts which would, he thought, fully establish that the attempts of Government with respect to that colony had failed, and would continue to fail. He feared that every hope which had been held out with regard to the improvement of captured negroes, after an enormous expense, had proved abortive. However, as all the returns which he required could not be produced this session, he would, for the present, content himself with stating the nature of them. They were, we believe, about 30 in number, and embraced—the expense of the civil and military government of that colony since the year 1608—the expense of the vessels employed on that coast for the prevention of the slave trade—the exports and imports to and from the colony in the same period—the revenue derived from the colony, and its application—the births, marriages, and deaths in the colony—a census of the population of various classes; and several other accounts of a similar nature, some of which, as one respecting the state of the captured negroes and Maroons sent thither from Jamaica, he asked for with a view of shewing that the experiment of free labour had failed at Sierra-Leone. He concluded by moving for the returns.

Mr. *W. Horton* inquired, he allowed, was requisite: but he trusted that the house and the public would suspend their opinions until the information moved for should be afforded. When that was obtained, the house would be qualified to discuss the policy of continuing the colony of Sierra-Leone, and to decide how far the experiment of free labour, which had been tried there, had or had not succeeded.

Mr. *Brougham* trusted that hon. members, in the absence of information, would not deem any sum which had been expended in support of the colony of Sierra-Leone unreasonable, however large it might appear at first view. He thought no man would conceive any sum unreasonable, who considered all the circumstances under which 90,000 individuals had been maintained for so many years. The question of free labour was not to be decided by the value of it at Sierra-Leone, but by the value of it in Hayti. The government of Hayti had recently declared that they were willing to receive any quantity of free negroes which might be sent thither; and he believed had actually received, within the last year, 6,000 negroes from Carolina, Maryland, and the other slave states in North America.

The returns were then ordered.

### *Captured Negroes, &c.*

FRIDAY, MARCH 11.—Mr. *Herries* moved (in the committee of supply) that 45,000*l.* be voted for the support of captured negroes, &c. and 17,423*l.* to defray the expence of the commissioners under the treaties with Spain, Portugal, and the Netherlands, for preventing the traffic in slaves.

Mr. *Bernal* opposed the grants, because he

conceived them to produce no practical utility. He complained of the lamentable increase of the slave-trade under foreign flags within the last few years, and contended that the horrors of it were now ten times as great as they were before we had abolished it. He believed that the five years had now expired after which Portugal was to give up the slave-trade south of the line. Slaves were, however, daily pouring into the Brazils, and not only into the Brazils, but also into the Havannah and the other colonies of Spain, which were now thriving at our expence. He trusted that something would be done to check this evil.

Mr. *F. Burton* complained of the shameful manner in which foreign powers were daily violating the treaties they had made with us on this subject, and called upon the government to take such measures as would release us even from the suspicion of countenancing the horrors which their conduct occasioned.

The grants were then agreed to.

### *Right of Search.*

MONDAY, MAY 16.—Mr. *Canning* laid upon the table the copy of a treaty between Great Britain and the King of Sweden and Norway, for the prevention of illicit dealing in African slaves. The right honourable gentleman said, that Sweden herself was not engaged in this nefarious traffic, but, unfortunately, her flag had been made use of to cover the trade of other nations. The object of government was to extend the power of search in suspected vessels as far as possible; and this request on the part of Sweden had been acceded to. He was sorry that another treaty to the same effect, which had been alluded to in the royal speech—with the United States of America—had not yet been accomplished.

### *East and West India Sugar.*

FRIDAY, MARCH 18.—Mr. *Spokes* said that before the third reading of the bill (Annual Duties) he wished to make a few observations respecting the sugar trade. The heavy duty that was contended on our East India sugars, was a grievous restraint upon trade, and a burdensome tax upon English consumers of the article. It was perfectly well known that all the countries, almost without an exception, lying within 25 degrees, on either side of the Equator, were by nature adapted for the production of sugar (hear, hear); and yet, such had been the narrow policy of our government, that its imposts might be said to have confined the growth of sugars for our market to a few small and isolated spots of land in the Caribbean sea (hear). Those duties amounted to a prohibition upon the importation of sugar raised in any other countries, excepting indeed, in our vast East India possessions: and our East India sugars were burdened with an extraordinary weight of duty. On what grounds had such a duty been laid upon an important product of our Indian empire, which contained a population of 80,000,000 of souls and more—who were ready to take our manufactures to a very large amount, provided only they could find in our markets a vent for their native produce (hear, hear)? If the object of Government had been to protect the West India interest, the only effect of such a plan was to keep up a cursed and detestable system of slavery, the existence of which every man in

that house must join with him in deploring. When he stated that the duty on West India sugars was 27s., while that on East India sugars was about 37s., the house must perceive that such a difference was calculated to keep one of these sugars entirely out of the market; and, by consequence, to diminish the supply. Now abundance of produce is the very sinews of commercial prosperity. It was true, there was a drawback allowed on those duties, amounting to 6s. per cwt.; but that drawback served only to put upwards of 1,000,000l. in the pockets of the West Indians. It was with pain that he felt himself bound on this occasion, strongly to object to the course which his majesty's ministers seemed disposed to take upon the subject. He had with pleasure supported them in reducing the duties on wool, timber, iron, hemp, and wine; and in all the principles upon which they had made these reductions, he cordially concurred. Even upon questions, perhaps, of more doubtful expediency—as when the bounties on our fisheries were withdrawn—he had gone with ministers, because he conceived that trade could only flourish by being free. But why was the duty on East India sugars to be continued—a duty so contrary to those principles of free trade which ministers had advocated with so much energy in other cases (hear, hear)? The East India trade was suffering severely from the inequality of duties; and the public were left without the benefit of a fair competition. To prove that the West Indians themselves considered that they derived no material benefit from the drawback on the exportation of sugars, he would cite the declaration of a gentleman holding a distinguished situation in the West Indies, who was allowed to possess the best information on these subjects, and who was himself the agent for the island of Jamaica—Mr. Hibbert. The hon. gent. here read an extract from a letter of Mr. Hibbert, published in the Royal Gazette of Jamaica, the 1st of May 1824, which admitted that the drawback on refined sugars was little short of a gratuitous bounty of about 6s. per cwt. on the exportation of all West India sugars—and that such was the opinion of the standing committee of the West India islands. The house would observe, that this drawback of 6s. per cwt. would amount, upon the total of sugars imported from the West Indies into this country, which was perhaps 190,000 tons, to about 1,140,000l. Now these facts were admitted by Mr. Hibbert himself; and yet the house, large as it was, would not answer the desires or the necessities of the West Indians (hear, hear). Year after year the West Indians came to this house for farther relief and assistance; to whatever extent that assistance might be afforded, it never proved satisfactory or sufficient. He, however, had a radical objection to bounties of any kind. If a bounty were allowed on sugar or any other article, the only effect was, that the foreign consumer would buy it so much cheaper; and in that case it must be allowed that we ourselves made a present of so much to the foreign consumer. It had been said that a rise of prices in colonial produce was rather beneficial in some respects than otherwise; and thus it was often argued, that such a rise of prices improved the condition of the West India slaves. But he denied this. He had reason to believe that the only effect of such an advance in prices was, that the slave was compelled to work the harder during all the

time the improved market was likely to last (hear). The free labourer, indeed, might benefit under such circumstances; but not the slave. In the Bahama Islands, where the slaves were generally better treated than in many parts of the West Indies, and sugar was not cultivated, the average increase of slave population with reference to other of the islands, was about 3 per cent. In Barbadoes, where very little sugar was raised, the increase was about one-and-a-half per cent. In the larger island of Jamaica, where the cultivation of this produce was carried on to a much larger extent, the decrease of human life was about 1 per cent.; but in Demerara, in Guiana, the great mart for sugars, and where the most considerable number of slaves were employed in its cultivation, the decrease of human life was about 3 per cent. He sat down protesting that he should never cease to advocate the cause of free trade all over the world (hear, hear).

Mr. Robertson recommended the abolition of slavery as the only permanent remedy for West Indian distress; but opposed that reduction of duty on the importation of East India sugars which had been just recommended to the house.

Captain Maberly observed, that the protecting duty had been defended on the ground that individuals had thereby been induced to embark their property in the West India colonies; but that he held to be no sufficient reason for keeping up the price of an article which might be denominated a necessary of life. In his opinion, it would tend greatly to the interest of this country, if it were not at all connected with the West India islands. From the time of Adam Smith to the present day, every intelligent writer on political economy had condemned our colonial connexions. The trade to the West India islands was a losing trade to this country. By importing sugar from the East Indies a double advantage would be gained; the article would be cheaper, and the country would be relieved from those heavy military and civil establishments which she, and not the West India colonies, now supported.

Mr. R. Ellis said, a solemn compact had been entered into between the mother country and her colonies—the former having stipulated to grant every protection to the latter; and that compact ought never to be lost sight of. On that ground he objected to the course proposed by the hon. member with whom the debate had originated, and, generally to the arguments of those who advocated the introduction of East India sugar, and who would force West India sugar out of the market. Every species of British manufacture was protected against competition. So was the linen of Ireland, and the salt fish of North America; and why should not the same protection be afforded to our colonial produce? The advocates for East India sugar argued that it ought to be imported, because it was produced by free labour: but gentlemen would recollect, that the greater part of the cotton which was manufactured in this country was brought in its raw state from the southern provinces of America and Brazil. Did they not know that a great portion of those who cultivated cotton in Georgia were slaves, and that all the cultivators of cotton in Brazil were slaves? Now, he would ask, did not those persons who purchased cotton thus raised, en-

courage, may aggravate slavery? Why, if they held slavery in such abhorrence, should they encourage it, by using the slave labour of another country? Yet, if they did not, they would be obliged to break up their intercourse with a great part of America and with Brazil—a sacrifice which neither the President of the Board of Trade nor the manufacturers of this country, would be very ready to make. The hon. gent. then contended, that the bounty on the exportation of the refined sugar of the West Indies was perfectly just; for on the faith of that arrangement the growers had been induced from time to time to embark their property in the trade. He wished that the Chancellor of the Exchequer could bring forward some equitable arrangement by which the interests of the two parties connected with this question would be preserved, while each of them received a certain benefit. As to the proposition of that rt. hon. gent. with reference to rum and brown sugar, he feared, if it were not considerably modified, that it would prove an injury, instead of a benefit, to the colonies.

Mr. F. Buxton said, that no desire existed on the part of himself or his friends to oppress the West India interest: but they were anxious that justice should be done to the black population of the colonies. It was asserted that a rise in the price of sugar was good for the slave, and that a depreciation of price was prejudicial to him. Now he denied this. A reduction in the price must produce one of two effects—either the proprietor would cultivate less land, or if he did not continue to cultivate it, he would substitute some other article of growth. In either case, this must be beneficial to the negro. If the proprietor ceased cultivating his estate, the negro would be exempted from labour; if, on the other hand, he continued to cultivate, the negro must be employed in raising provisions. He was sure, that the custom of not growing provisions was one of the greatest evils in the colonial system; and he believed that many persons thought the growth of provisions in the colonies should be attended to almost exclusively. The custom of keeping up high prices by giving artificial bounties, caused the neglect of this branch of cultivation; and the removal of a system which had such injurious effects would be extremely beneficial. Take it either way, it must do good: if the cultivator ceased to employ the negroes, there would be a diminution of labour; but if he still chose to employ them, there would be an increase of provisions. It was quite clear, that when the least quantity of sugar was grown, the slave was better off than where the cultivation of sugar was carried to a great extent.

Mr. Trant deprecated these incidental discussions of the colonial questions. He should, therefore, abstain from expressing his opinions till the matter came substantively before the house.

Mr. Bright expressed his hope that those who professed themselves the friends of free trade would take care that the West India interests were not the only exception to the general application of the principles. Those interests had already suffered materially from the effects of an opposite system. The exports from the West Indies to North America had been reduced to almost nothing.—To proceed to another topic: it had been said that the mortality among the slaves was proportioned to the great or small production of

sugar in the various places where it was cultivated. In support of this assertion, a comparison was drawn between the slaves in Demerara and Jamaica and those of the Bahama Islands. Nothing could be less satisfactory than such a comparison, because the occupation and the habits of the slaves in those places were wholly distinct, and the fertility of the soil was not less different. It would be as just to compare the slaves of Jamaica with those who were employed to work the Mexican mines. The assertion that the slaves were worse off in proportion to the quantity of sugar raised, was opposed to the testimony of every man who had written upon, or who knew any thing of the subject. It was the interest of the planter to take care that his slaves were well fed and clothed, and it was obvious that he was better able to provide for them when a large supply and better prices were the consequence of their labours; and this was accordingly the actual result. On the contrary, the effect of low prices was sometimes to force cultivation. He called upon hon. gentlemen to take such measures with respect to the West India interests as were consistent with the principles of free trade—to do justice to those interests, and not to leave them in the lurch while they professed to extend the benefit of such principles universally.

The Chancellor of the Exchequer said, he wished to explain why he had refrained from taking any part in the present discussion. The bill (the Annual Duties bill) had passed through all its stages to the third reading without any objection, or the show of any opposition, having been offered on the subject of the duties. He had, indeed, been given to understand by the member for Weymouth (Mr. Buxton), that it was his intention, and that of his friends, to avail themselves of the opportunity which the third reading would give them, of expressing their opinion on a part of the question. He had suggested to the hon. gent. that such a course would be inconvenient, but still it was preferred, and had been followed. No opposition had, however, been offered, nor had any alteration been suggested, with respect to the duties. He thought, therefore, that he was fully justified in remaining silent. What his opinion was, the bill he had brought in sufficiently explained. The duties for the year to come would be the same as they had been for the year past. Whether future circumstances would occasion a change in the measure he had submitted or not, was what he would not now speculate upon: but he should have thought it unreasonable if he had proposed any different scale of duties.

The bill was then read a third time, and passed.

### *Slave Acts Consolidation.*

TUESDAY, MARCH 15.—Mr. W. Horton rose to ask for leave to bring in a bill to consolidate the Slave-Trade Abolition Act. He understood that a learned gent. intended to oppose the introduction of the bill, unless certain clauses were inserted in it to prevent the return of foreign refugee slaves who had found their way into our colonies.

Dr. Lushington said, that he could by no means consent to give up refugee slaves, who had once established themselves in any of our

West India colonies. Such a power could not be justified either by any law of nations or of man. If the bill created such a power, he could make no concession upon it.

Mr. *W. Horton* said, that if such were the hon. member's resolution, he must postpone his motion to a future day, in consequence of the absence of his rt. hon. friend, the Secretary for Foreign Affairs.

### *Free and Slave Labour.*

FRIDAY, MARCH 21.—Mr. *Hume* (in the committee of supply) objected to a sum, which had, notwithstanding the repeated remonstrances of the Lords of the Treasury, for four years past, amounted to from 1,600*l.* to 2,000*l.* The money was advanced for the maintenance of from 300 to 400 negroes, artisans, and mechanics, who were retained by the Government at Berbice. It had been said that free labour was cheaper than slave labour; and, in order to make an adequate experiment, these 300 or 400 negroes had been held in the pay of Government, under commissioners appointed to manage them, in consequence of a request from the hon. member for Bramber, and others of the Emancipation party. It turned out, however, that this labour could only be made to answer the expenses of supporting it by grants from Government, which the Lords of the Treasury had objected to, but yet persisted in paying. The colonial department ought not to have suffered this experiment to be carried on at the expense of the British public. Surely, when they called upon gentlemen who were interested in the protection of West India property to relinquish some part of the claim they made on their slaves, they ought first to set the example, and prove the superior power of free labour by manumitting these 300 or 400 slaves.

The Chancellor of the Exchequer admitted that, on the cession of Berbice to the British crown, the Government had taken possession of those 300 or 400 negro artisans held by the previous Government, and that at the suggestion of a very considerable and humane party in that house they had undertaken to have them held by commissioners of their own paying, in order to make trial of the effects of free labour in their maintenance. Those persons, like many others who employed agents abroad, were betrayed and brought into dangerous expenses, and finding it impossible to fulfil their trust, returned it back to the Government, to manage it by its own commissioners. He had nothing to say for the project in either case. But there were the slaves, and Government knew not what to do with them. Undoubtedly, if the charge could be got rid of without the danger of exposing the poor creatures to absolute distress and misery, it would be due to the interests of the British public to adopt the mode of abandoning it suggested.

### *Administration of Justice in Jamaica.*

TUESDAY, MARCH 22.—Sir *R. Wilson* rose to put a question to the Colonial Sec. relative to a subject which was of serious importance to the proper administration of the law in Jamaica. It had been stated in a pamphlet written by Mr. *Mickle*, a clergyman of the Church of England, "that in one of the recent trials (of certain slaves) the jury was dismissed, because the judges thought the

offence so trivial that a very lenient sentence would be sufficient for it; and yet, on the next day, the same jury was re-assembled, when a very severe sentence was passed on the offenders." Now, he wished to know whether these facts were properly stated, or not?

Mr. *W. Horton* said, that a report of the trials to which the gallant officer alluded had been laid on the table of the house some months ago, containing full information on the point about which he appeared so solicitous. The analogy which Mr. *Mickle* had supposed to exist between an English jury and the jury impanelled for these trials had no existence, except in his imagination. The court which took cognizance of such offences as had been committed, was a court formed under the bill for the consolidation of the acts to regulate the slave-trade, and was imperfect unless a jury were present. The jury were, therefore, re-assembled to enable the judge to pass sentence; and in passing that sentence the judge was bound to adhere to the letter of the law. As the parties had been found guilty of a crime which was punishable by transportation, the judge was bound to pass sentence of transportation upon them. The power of mitigating that sentence rested with the governor, and the governor alone. The pamphlet of Mr. *Mickle* was drawn up throughout in a very flippant style, and showed gross ignorance of the subject on which it was written.

### *West India Company Bill.*

TUESDAY, MARCH 29.—Mr. *Manning* moved the second reading of this bill.

Mr. *F. Buxton* said, he should give it all the opposition in his power. He looked upon this as a company dealing not merely in sugar, and other West India produce, but opening a disgusting traffic in our fellow-creatures. He, therefore, would move as an amendment, that the bill be read a second time that day six months.

Mr. *Robertson* expressed his surprise, that the hon. member, who was the champion of all sorts of joint-stock companies in that house—some of them calculated to bring ruin on the parties concerned—should oppose this bill, which really tended to benefit his fellow-creatures.—The amendment was negatived without a division.

MONDAY, MAY 16.—Mr. *Manning* moved the third reading of the West India Company bill.

Mr. *Evans* opposed it, on the same ground as Mr. *Buxton*; and concluded by repeating the amendment, that the bill be read a third time that day six months.

Mr. *T. Wilson* said, that the employment of capital in the proposed company, by relieving the distresses which were felt by the planters in the West Indies, would ameliorate the situation of the slaves.

Dr. *Lushington* opposed the bill. The operations of the company must necessarily be conducted by agents, and the consequence would be, that the slaves would endure worse treatment than if their immediate masters were on the spot. The difficulties in the way of manumission would also be increased. Manumission was frequently conferred by masters on their slaves, by their wills, as a recompense for long services or other such causes. This intelli-

mate connexion could not subsist between a numerous company and the slaves employed by them; and the slaves would become, as it were, vested in mortmain in this company. This measure would have the effect of perpetuating a system, of which the house had already expressed its reprobation.

Mr. *Hume* said, the objection of his learned friend, relative to the slaves being under the direction of agents, existed at present, and must always continue to do so. The distress in the West Indies fell equally on slave and master, and this bill would tend to relieve both.

Sir *J. Coffin*: "I am satisfied that this is a good bill, and I hope it will pass" (hear, hear).

Mr. *Gordon* said, the object of the bill was only to enable West India proprietors to borrow money from a company instead of from individuals. He contended that the condition of the slaves would be ameliorated by the passing of the bill.

Mr. *F. Burton* admitted that there was a reduction of the value of slave property, and that the bill would discourage the investment of capital in slaves. He thought, however, that the slaves were human beings, and, on every principle of Christianity, should not be made matters of sale. The bill would give greater power to the West India interest, which already possessed too much. Mr. *Fox*, many years ago, said, that there was no body in the state so well represented in this house as the West India interest. He had seen a paragraph in a Jamaica paper, in which it was stated that the West India trade could put forth a phalanx of 800 members in the House of Commons (a laugh).

Mr. *Brougham* had a decided objection to the bill, not on account of a wish to prevent the incorporation of joint-stock companies, though he admitted that in general such companies were most mischievous when not laid under very tight restrictions, and watched narrowly in their proceedings; but his objection to the bill rested on grounds of greater importance. He entreated the house not to be led away with the vain imagination that they were legislating upon a private act of parliament. The bill was a measure which affected property all over the West Indies; it affected the comfort of the negro slave, man, woman, and child, in the whole West India colonies. If he understood the measure aright, it was one for exasperating one of the mischiefs, already sufficiently great, attending upon negro slavery. If he could not demonstrate this to the satisfaction of every member in the house, he would be content to withdraw his opposition to the bill (some interruption). If the house felt any difficulty in attending to the subject at that moment, he would move an adjournment of the question to a time when they felt themselves more fit to legislate upon the limbs, liberty, and lives of 800,000 human beings. What was at present the only security which slaves had for any thing like mild or just treatment? It was, that it was the interest of the master to treat them kindly. But if he lived away from them, if 3,000 miles of sea were interjected between him and the slaves, every man living must admit that the latter would have but little chance of mild and just treatment. It was already admitted that incalculable evils resulted from the non-residence of the planters. That non-residence was always the excuse made for those evils. "My lord such a one," it was

said, or "Mr. such another," would treat his slaves well if he lived on his estate; but he lives in London or Liverpool, and is obliged to trust the management of his estates to an overseer. Now what did the bill propose to do? To form a company of 40,000 persons necessarily absent from the West Indies. It might be said that one person would hold a great many shares; but the number of the shareholders made little difference. Be they few or many, the comforts of the slaves would depend upon those who were thousands of miles from the spot. The bill would add to the evil of non-residence a more probable cause of ill-treatment of the slaves; they would have no direct owner at all. This was carrying on joint-stock companies with a vengeance. He had no objection to joint-stock companies for establishing banks, or making canals or rail-ways, but he would never consent to put the happiness of 800,000 negroes at the mercy of one of them. Suppose the negroes on an estate should be maltreated, where was the remedy to be found? In the board of directors of the company! He might hope for the good treatment of slaves in the character of particular planters; but it would be in vain to seek for it amongst a board of directors—the deputies of shareholders, who had no more than an ideal property in the negroes. What was bad before the bill, would now be made ten thousand fold worse, and by passing it, the house would sacrifice the little chance which existed of correcting West India abuses, for the love of establishing joint stock companies, and encouraging a traffic in their shares.

Mr. *Baring* said, the object of the bill was not as the learned member seemed to think, to enable a company to buy up West India property, but only to enable them to become mortgagees of that property. If the measure could have any reference to the question of the slave trade at all, it would, he believed, have a tendency to prevent that traffic. He had no apprehension that any acts of oppression would be permitted under a company which was compelled to publish an account of its proceedings once a year. Having alluded to the subject of the slave trade, he could not avoid expressing his indignation at the fact, that that trade was at present carried on with the most unblushing effrontery by the great continental powers. In France, not the slightest attempt was made to disguise the fact. By other countries which attempted to disguise it, the traffic was attended with greater cruelty. More misery was, he believed, now connected with the slave-trade than at any period since it had attracted the attention of the British Parliament (hear, hear).

Mr. *W. Smith* said, that the hon. member who spoke last, had said, that an annual account of the company's proceedings was to be made public; but a clause to that effect had only been introduced at a late stage of the bill; originally it was not intended that the bill should contain any such clause. The scheme in question would be a losing one to those who engaged in it. It was an attempt to prop a sinking interest; but he did not believe it would be a successful one.

Mr. *R. Ellis* insisted that the negroes would be benefited by it. The object of the company was to lend money, and by no means to become proprietors of estates. As the trade of the West India merchant was better far than that of the planter, they would always be in-

desired to avoid foreclosure upon mortgages, where it was possible.

The house then divided. For the bill, 103—Against it, 25—Majority, 78.—After which the bill was read a third time and passed.

**LORDS, FRIDAY, JULY 1.**—Earl Bathurst moved the third reading of the West India Company bill.

Earl Grosvenor regarded this measure as one of considerable importance. He was afraid that the passing of this bill would make the condition of the slaves worse than it now was. However, as on the other hand there were many good reasons to be urged in favour of the bill, he should not oppose it. He hoped that the subject of free labour would be taken into consideration by parliament at an early period of the next session.

Earl Bathurst would not agree to give the bill his support if he supposed that it would create any obstacle to the improvement of the situation of the slaves; but, on the contrary, he conceived it would be highly useful to them. While the West India planters were in distress, their slaves must be in distress also; and as this bill would alleviate the distress of the planters, it was to be presumed that it would also ameliorate the condition of the slaves.

The Marquis of Landown and Lord Colthorpe said a few words in favour of the bill, which was read a third time and passed.

### *Deportation of Two Persons of Colour from Jamaica.*

**THURSDAY, JUNE 16.**—Dr. Lushington rose to present a petition from two persons of the names of Escoffery and Lecesne, complaining of having been, without any just cause, sent out of the Island of Jamaica, in 1823, by the Duke of Manchester. In his view of the question, it was of very considerable importance to the safety and prosperity of the colonies in general, and to the colony of Jamaica in particular, that this case should be investigated; for it certainly disclosed one of the greatest outrages that ever was committed on British subjects. It might be proper to state, that the population of Jamaica consisted of 360,000 blacks, 86,000 free men of colour, and 25,000 whites. These 36,000 men of colour had long been under the most heinous disabilities. No farther back than 1815, there existed a law, by which free men of colour were prevented from bequeathing more than 2000*l.* to a person of colour, even though he should be a son or a brother. They were prohibited from giving evidence against the whites, and from serving on juries. They were permitted, however, to pay taxes, they subscribed to funds for the furtherance of education, and for the support of religious institutions, and yet they were not allowed to exercise the elective franchise. A white alien could not be convicted on the evidence of a slave; but a coloured free native might. An attempt was made, in 1822, to get rid of those disabilities, which led to considerable discussion. That effort, however, had failed. Now he thought that any man who considered for a single moment how exceedingly important it was, not only to the interests of justice, but to the safety and preservation of this colony, to consult the good wishes of this large class of the population, who at that moment enjoyed their freedom, who were

possessed of property, and who were daily increasing, not in the ordinary course of population, by the addition made amongst themselves, but also by the increasing offspring from whites and blacks, must see the necessity of treating them with kindness and consideration. Those persons were allowed to serve in the militia, and to hold the rank of sergeant. They were trained up in, and they understood the art of war; and on their fidelity and allegiance he might justly say that the safety of Jamaica depended. Up to the present moment, there had not been imputed to this class the slightest disposition to commit any offence against the government, or the slightest wish to promote insubordination. All the writers on the subject of Jamaica concurred in stating that their loyalty to the government was unimpeached. Mr. Bryan Edwards, the historian of the West Indies, spoke in the highest terms of those people. A secret committee appointed by the House of Assembly in Jamaica, to inquire into the cause of certain disturbances which had prevailed there some time back, reported, in strong terms, that the coloured inhabitants deserved well of the community for their irreproachable conduct. Such was their language in the month of November last, yet it was on two persons of this class, so highly praised and esteemed, that acts of great injustice had been practised. There were, in the population of Jamaica, four intermediate classes, between absolute darkness and whiteness. It seemed that freedom in that island depended entirely on the relative fairness of the skin. But though colour produced disabilities in Jamaica, it did not produce any in England. One individual of colour held a post in His Majesty's government; and another had arrived at high rank in the army, and had formed a connexion with a branch of the other house (hear, hear). The learned gent. proceeded to state, that the petitioners were, in the month of October, 1823, put under arrest; but, on the business being heard before the proper law authorities, they were set at liberty as free-born subjects. They were, however, again arrested on the 29th of November, and banished as aliens. Now, it was admitted on all sides, that they had, from their infancy, resided on the island; and the point agitated against them was, that they had not been domiciled there till they were two years old. He, however, did not care whether the period was three or four years; for it was notorious, that when they were school-boys they were domiciled in Jamaica. They had, in 1815, taken up their freedom, and they had served as sergeants in the militia. In short, they had resided on the island for 25 or 26 years; and he must say, that the course pursued towards them was an exercise of the power of the alien act, under the government of the Duke of Manchester, which astonished him. The charge against these persons was contained in a letter written by one of the government collectors, and dated the 30th of September, 1823, in which an accusation was made against them for raising money, ostensibly for a religious society, but in reality to procure arms. Now there was not a single word to prove one tittle of this assertion. He had himself seen all the papers of this religious society, which fully accounted for the money they had received and expended. It was complained that this society placed too much confidence in those persons,

But who were those in whom the confidence was reposed? Why, the very people of colour whom the Assembly of Jamaica described as most zealously attached to the peace and happiness of the colony. It was also said that those parties kept up a correspondence with certain French whites, which was injurious to the government. But of this no proof had been adduced. And yet, without any evidence of these facts, the Duke of Manchester allowed himself to sign an order for taking up these individuals, and deporting them to St. Domingo (hear, hear). It was impossible in all these returns—the papers which he now held in his hands—to find a single atom of testimony that bore against them. If there were any such evidence in existence, or any fact that could be produced, it ought to have been, undoubtedly, included in these returns, because the whole evidence had been moved for, and the whole ought, in justice to the Duke of Manchester, to have been supplied. Now who were they whom his Grace so ordered to be deported? Two men resident in Kingston; one of them possessed of 14 slaves, the other of 5; both well-known and respected, and carrying on a large wholesale business as distillers; both married, with families of four children each—yet, thus circumstanced, without giving them time to settle their affairs, or to take leave of their families and friends, they were hurried away by virtue of this extraordinary order, and forcibly transferred from their houses. Scarcely, however, had a principal performer in this business, Mr. Barnes, the Mayor of Kingston, found what was likely to take place, than he began to feel alarmed, and he went so far as to say, that notwithstanding he had the orders, he had not yet taken up the parties; that he should be disposed to adopt any legal measures to prevent their going away out of the island; and that being married men, they would be sure to have many friends in the country. Why, most likely they would; and it was most improbable, on a similar account, that they would submit very quietly to an unwarrantable order of deportation. Notwithstanding this, the business was proceeded in, though all was silence and secrecy as to the true motives which had excited these proceedings. The warrant having been issued against them, however, it would seem that the Duke of Manchester considered himself bound to carry it into execution; and that he thought, seeing that he had ordered them to be carried out of the country, that no considerations of private interest should be allowed to interfere with their sentence. They caused a petition to be prepared on their behalf, representing to the Duke that they had privileged papers. Now the house ought to be informed of the meaning of this description. Every person of colour, claiming to be free, before he could give evidence was obliged to go before the court, and there prove that he was a British subject, and entitled to his privilege. Now these two individuals, Escoffery and Lecesne, went before the court in 1814, nine years prior to these transactions, and obtained their privilege; upon the affidavit of the father of one of them and on other evidence. Now, to free men of colour this privilege, by the law of Jamaica, could not be granted unless the court before whom the application was heard were unanimous in granting it. Strange to say, Mr. Barnes himself was one of the

magistrates who granted, on this very occasion, his privileged papers to Lecesne, which were afterwards impeached in his presence (hear, hear). But what was done by the Duke of Manchester in reference to the petition? He referred it and the accompanying affidavit to Mr. Hector Mitchell and Mr. Barnes, the persons who had already presented the papers he had referred to, and who had acted in the manner he had mentioned. What chance of justice had they when their petition was referred to those who had already complained of them; and who were now to report on their petition, without hearing a single word of the evidence they had to offer, or instituting anything like an investigation into their case? The Duke's letter to Mr. Mitchell and Mr. Barnes of the 8th of October, directed them to confine their inquiries to a single point—whether or not the parties were aliens? If it should appear that they were, then the order which had been made out must be carried into effect. The report of Messrs. Barnes and Mitchell expressly stated, that the men were aliens, and that the affidavits produced by them were altogether unworthy of credit. Now these were the very same affidavits upon which the court of King's Bench had determined that the parties were entitled to their privilege of evidence (hear, hear). As to Lecesne, the official copy of the will of his father showed that he was not born at St. Domingo, but in Jamaica. That will, too, declared that this son should be the executor of the deceased; it vested in him the care of his younger brothers, until they should have attained a certain age; and directed that the whole property should remain in Lecesne's hands for a period of six years at least. A strong reason for this sort of disposition was, that by the law of Jamaica an executor was entitled to six per cent. on the amount of property he administered; and a testator was always anxious, therefore, in that island, that his executor should be one of his family; because, by the whole of the estate passing through such hands, a considerable saving of expense was effected as regarded the parties intended to be benefitted. Then, as to Escoffery, they stated that he was an alien, and that satisfactory affidavits clearly proved that he had been unsuccessful in a former attempt to obtain privileged papers, and in fact had not obtained them. Nothing could be more gross than the conduct and the evidence which were here exhibited. Mr. Mitchell and Mr. Barnes were thus deceiving the Duke of Manchester, and getting up—whether from motives of private pique or with what other personal views, it might be easy, perhaps, hereafter to discover—a statement which they knew to be false. They knew that Escoffery was not an alien, and that he had obtained his privileged papers (hear, hear). But here he should perhaps be asked, how it could be imagined that two gentlemen, one of them a magistrate of Jamaica, the other mayor of Kingston, could have any interest in fabricating a false report on a petition of this kind? Perhaps there might be some cause assigned for the grossness of their interference, and the persecuting spirit they had manifested. In a lawsuit which had been instituted some years since, Louis Nicolas Regulier and Mary Hall were plaintiffs, and Mr. Barnes and another defendants. In that case, wherein Lecesne was interested against Barnes, it seemed that an estate had been devised by the



father of these parties, upon which Mr. Barnes had asserted a claim of 4,000*l.* The matter, after a long litigation, was heard on appeal before the privy council, who declared Mr. Barnes's claim to be altogether fraudulent. He was obliged to infer, that some such circumstances as this had induced Mr. Barnes to act in regard to these two individuals in a manner so derogatory to the interests of justice, and his own honour. In all that he should say on this subject, he would be very cautious, and indeed he had not advanced a single syllable that he did not conscientiously believe he could satisfactorily prove. The learned gentleman proceeded to give a history of the proceedings which on a former occasion, in October, had been had upon the application before the Supreme Court, Jamaica, to bring up the parties by *habeas corpus*. That application was signed by no less than five magistrates; and among others by a member of council, and by Mr. Hall; and these petitioners expressed a concurrent opinion that Escoffery and Lecene were not only British-born subjects, but free from all blame in these transactions. The house would observe that the Duke of Manchester, in the first instance, had issued his warrant to the Provost Marshal, and yet at the foot of the same petition they would find the Marshal's own name, Angus Kennedy (hear, hear). This petition, thus respectably signed, the Duke treated as nothing—as unworthy of any serious consideration; and affected indeed to suppose that it came principally from creditors interested in the affairs of the distillery. The fact, however, was, that of the 35 or 36 petitioners, five only were creditors, and those not to a greater amount than 25*l.* The two men themselves bore a very good character, not only for their commercial dealings, but for their conduct in the militia. Mr. Hall had also borne testimony of his very good opinion of and confidence in them; but, notwithstanding all the testimony in their favour, the Duke of Manchester had thought proper to act upon an impression of precisely contrary nature, and unsupported by any kind of investigation whatever. Upon the hearing on *habeas corpus*, the court discharged both individuals. The affidavits adduced by Lecene established in the strongest manner the fact of his being a British-born subject; and besides the evidence then given by the woman who had accompanied his mother when she was pregnant with him, to St. Domingo, he had succeeded in obtaining the original bill of the accoucheur who attended her, properly verified in Jamaica. On behalf of Escoffery, 10 or 12 affidavits were given in to the same general effect, and so conclusive that they required no comment. Against Lecene's affidavits some evidence was relied on by the Duke of Manchester, as to which the learned gentleman declared his conviction of its falsity; and the Court of King's Bench, consisting of Mr. Scarlett, Mr. Mills, and Mr. West, upon the argument, ordered his discharge. On the occasion of the two individuals going up to seek their discharge they prepared to offer bail; they took with them six freeholders for that purpose, and Mr. Hall appeared as one of them. The Chief Justice said, that the court required no bail, for no offence had been committed. But what were the subsequent proceedings, despite of this decree of the court? In the House of Assembly, Mr. Hector Mitchell

moved for a secret committee, which was granted. He was appointed chairman; Mr. Barnes was named next; and next the two advocates who had prosecuted for the crown. Now, what did this secret committee proceed to do?—to investigate this case—to examine into the truth of the statements? No; they did not call a single witness on behalf of those persons (hear, hear); they proceeded in a way that must disgust every hon. gent. who heard him, accustomed as we in England were to a pure administration of justice. The committee, however, made a report, in which they stated that having taken the examinations of several persons at Kingston, it appeared to them that an improper correspondence was kept up between some people of colour there and the emissaries of Boyer; and it was suggested that Lecene and Escoffery were very dangerous characters from the part they had taken in that correspondence. Another secret committee at the same time reported, in terms of the highest encomium, on the good dispositions and excellent conduct manifested by the whole black population of the island. On the 28th of November, the Duke issued his warrant for the deportation of these individuals; and he must say, that this order was executed with as much cruelty and severity, as it was in itself unjust and inhuman (hear, hear). And here he would ask, upon what principle of law it was, that after their discharge by order of the court of King's Bench, the reports of a secret committee, or examinations before the governor in council, in the case of these individuals or any others, were to overthrow the decrees of established courts of justice (hear), and to introduce a system of proceeding not only unconstitutional, but in itself abhorrent to every principle of rational justice. The learned gentleman then again adverted to the law of Jamaica, in respect of the privileged papers of free people of colour, contending that the Attorney-General of the island in either case—whether Lecene and Escoffery were British-born subjects or aliens—was in error, if he had recommended the measure of deportation, because the secret committee asserted that they proceeded on the evidence of a slave, as to the charge of Lecene and Escoffery's supplying arms. Now an act of parliament, it was well known, provided that a free man of colour might be prosecuted, convicted, and executed upon slave evidence. The Attorney-General would have had nothing to do therefore but prosecute in the usual manner upon slave evidence in this case. The learned gentleman after remarking on the enormous facility with which convictions could unhappily be obtained in Jamaica, and the avidity with which executions were looked for, stated what had been the sufferings of the two individuals he was speaking of, on their reaching St. Domingo, where they were disowned by the government, and even suspected, until they showed a report of the proceedings which had been had in court on their being brought up by *habeas corpus*. They were in Hayti compelled to sell their clothes and watches; and were only able to subsist, and provided with a passage to England, by the generous subscriptions of a few British merchants resident at Port-au-Prince. He proceeded to call the attention of the house to the conduct of Mr. Hector Mitchell towards the petitioners. He offered to two of their slaves 600 dollars to give evidence against

their master, and threatened them, in case of their refusal, with punishment. He carried his threats into execution by committing one of them to prison for seven months, during the whole of which he was kept in a condemned cell, and was not suffered to leave it even for the purpose of taking a walk in an adjoining court. The other was kept in similar confinement for more than ten months, and when the Slave Court was held, both of them were discharged by proclamation: for by the slave law of Jamaica, a slave could be imprisoned six months, at the end of which time, if there was no prosecution against him, he was discharged by proclamation. The slaves who had suffered this cruel treatment had arrived in the course of the present week. He had examined them, and he was perfectly ready to produce them before a committee of the house, if the opportunity of doing so should be granted him. He was quite convinced that no man could see and hear them without being satisfied of their veracity. Another evidence he should have to submit was a poor Irish boy, who had been abandoned in the streets of Jamaica, where he was famishing and suffering under a bad fever, when he was found by one of the petitioners. This boy remained under his roof until the period of his deportation, when he attempted to accompany him; but being prevented, he worked his way to the place where he met his preserver. This boy, who was remarkably acute, he had also examined, and he would without fear submit his testimony to any scrutiny that might be thought fit. He felt himself now obliged to say, and he did so with considerable pain, that a very great portion of the blame in these transactions devolved upon the Duke of Manchester, who appeared not to have acted merely under the bad advice and the misrepresentations of others, but to have made himself a party in the cause. He had even gone so far as to make assertions which he had reason to believe were not founded in fact. He stated, that it had been proved beyond all doubt that the petitioners were aliens—an assertion which could not be true, because it was directly at variance with the decision of the Court of King's Bench and the evidence before the house. He concluded his despatch by saying that he should not have thought it necessary to make the details which it contained to their lordships, but that he had believed it was the intention of the petitioners to make some application to them. Could the Duke of Manchester imagine that it was not necessary for him to explain to the British Government the grounds upon which he had thought fit to transport two subjects of that government, at five minutes' notice, from the island of which they were natives, and to plunge them in almost total ruin? The report of Mr. Burge, the Attorney-General, upon which the Duke of Manchester relied, was, in many respects, wholly false (hear, hear). It was conveyed in such terms as he should have thought no man in his situation would have dared to use. He talked about "the difficulty of bringing before a court of justice evidence to prove the fact of the conspiracy which he had charged to have existed; because the persons who could give that evidence were either parties concerned and would not attend, or slaves whose evidence could not be received." This was false from beginning to end; for the former could have been compelled to give evidence

and by statute law the evidence of the latter was directed to be received in all cases like this. He would, however, detain the house no longer with comments on these papers, every line of which provoked a comment. It was evident that by a gross abuse of power, and an utter disregard of the principles of justice, such as had been displayed upon the present occasion, the allegiance of the free coloured population of Jamaica must be alienated from the government; and the result could be no other than the total destruction of British power and property in the island. He concluded by moving for a select committee of inquiry.

Mr. W. Horton: He had in the first place to observe that his learned friend had not stated this case with his usual candour, because he had omitted to inform the house of a material fact. In a conversation with his learned friend, he had informed him that it was not upon the papers before the house that the case rested in any degree whatever. There was other evidence which it was not consistent with the duty of the Sec. of State to give out for general publication. Surely his learned friend ought to have stated this fact, although the coloring of the case had no doubt been improved by its suppression. He ought also to have stated that he (Mr. Horton) had consented to the appointment of a secret committee; before which alone the entire evidence could be laid, and which therefore gave the only means of redress to either party. As his learned friend had declined this course, he (Mr. Horton) could only undertake to defend the conduct of the Duke of Manchester;—the rest of the proceedings, it was impossible for him to enter into now. To proceed, he should pass by the topics which his learned friend had introduced into the beginning of his speech, respecting the condition of the free coloured people of Jamaica. It was enough for him to take things as he found them. The free coloured people of that island were under certain disqualifications, but that circumstance did not free them from their allegiance to government. The important question upon which this case turned was, whether a conspiracy existed against the government; and whether the petitioners were parties. This question could only be decided by the production of the evidence he had alluded to before a secret committee, because it was impossible for the house, or for any committee of the house to decide upon the conflicting testimony now upon the table. At the period to which the transactions referred, a strong feeling of alarm prevailed at Jamaica. If any body doubted the reasonable grounds of that alarm, he could refer them to a letter written by Mr. Samson and Mr. Scoller, the chairman and secretary of a committee of free coloured people, to Mr. Wilson, in London, in which they spoke of their "long endurance under an oppressive tyranny, which one energetic effort of their own would suffice to overthrow or destroy." Was it unreasonable to suspect people avowing these sentiments? With regard to the petitioners, the house of assembly and the council had reported, without a dissentient voice, that they were engaged in a treasonable conspiracy. What ought the Duke of Manchester, then, to have done with persons so dangerous—and how great would have been the responsibility he must have incurred, if he had acted otherwise? This course was sanctioned by the ad-

vice of all the officers of government in the Island; and although his learned friend had not scrupled to affect them with reproach, he was wholly at a loss to know upon what the charges his learned friend had brought against them were founded. The Attorney-General, whom his learned friend had charged, together with others, with having put into action that monstrous scene of iniquity he had detailed to the house, had always been acknowledged to be a person of ability and character. If the petitioners were innocent of the charges against them, there could be no doubt that they had been very hardly used, and that they were entitled to redress. But he must remind the house that the opportunity for obtaining this redress by means of a full examination before a secret committee of the house, had been offered, and till this was done, the opinion of the house must be suspended, because the facts of the case were not before it. If Mr. Hector Mitchell had been guilty of the atrocities laid to his charge, God forbid that he (Mr. Horton) should say one word in his justification: but to believe that he had done so, would be to believe that all the persons whose duty it was to watch over the administration of justice in Jamaica had neglected their duty in a most extraordinary manner. But whilst the charge of falsehood was thus copiously made against others, was all that the petitioners had stated true? They had said that they were never engaged in any illicit traffic with St. Domingo, and that they had never carried on treasonable correspondence—statements, the utter falsehood of which the evidence he had alluded to would establish, and prove the contrary, beyond a doubt. If the house were prepared to believe that the house of assembly and the council had conspired to falsify the evidence on the case of the petitioners, and that the Duke of Manchester had lent himself to aid their depopulation out of the country, then something like a case might be made out: until then, and he thought there was no present probability of any such event, the house must suspend its opinion. The evidence of which he was in possession was so satisfactory to his mind, and his knowledge of the private character and amiability of the Duke of Manchester was such, that he would not concur in any censure, implied or otherwise, which, upon grounds like those before the house, it might be attempted to pass upon him. He would never advocate the keeping back any evidence which was necessary for the ends of justice. He left it to the house, without hesitation, to decide whether the statement of his learned friend had established any thing like criminality against the Duke of Manchester (cheers).

Mr. Scarlett said, he thought the Duke of Manchester had been misled by the persons whose duty it was to advise him; and he understood the arguments of his learned friend to apply rather to those individuals than to the Duke. He had read the whole of the evidence attentively; he had been induced more particularly to do so, because a near relation of his own had sat in judgment on the subject. There were some circumstances in the evidence which excited strong suspicions in his mind. On the application for the *habeas corpus*, the strongest evidence against Lecesse was the affidavit of his sister Lucille, who swore that he was born at Port-au-Prince, Lecesse

brought three persons to swear that Lucille told them she had been induced to swear to this, which she knew to be false, at the persuasion of a Mr. Villegreme, who told her if her brother were shipped off, as he would be, in consequence of her affidavit, she would become entitled to one half of her father's property; and threatened, if she did not make this affidavit, that she should be imprisoned. Now, although the court had in the first instance granted a rule to show cause, no attempt had ever been made, either by Lucille Lecesse, or by Mr. Villegreme, to contradict the very heavy statements which were made against them. While this imputation of Mr. Villegreme's having suborned perjury against the petitioners remained, he should suspect whatever came from the same source. The learned gentleman sat down by contending, that, whatever objection might exist to producing the evidence as to the sedition, there could be no mischief in publishing that, if there were any, which related to the question of alienage. It was impossible for the house to pay too much attention to appeals of a description like the present; as it was well known that, in the colonial assemblies, the coloured population was far from meeting with any thing like liberal consideration.

Mr. Canning said, that however he might have been disposed to prefer the course suggested by his hon. friend (Mr. W. Horton), he should not now oppose the appointment of a select committee. The short question upon the present charge, as it applied to the conduct of the Duke of Manchester, was, whether the Duke had or had not treated British subjects as aliens; that was a simple question, and one easily capable of proof, but one which certainly was neither proved nor disproved by the evidence before the house: in one admission, however, all parties must agree—that when the Duke of Manchester came forward, offering to waive the privilege which his absence gave him, and submit to clear his conduct by a trial by law, he entitled himself, so long as the question was pending, to a suspension of opinion as to his conduct. The learned member (Mr. Scarlett) observed, that if the Duke of Manchester had done wrong, he had probably been misled. In this opinion he entirely concurred; but it was yet to be shown that the Duke, in what he had done, had exceeded his authority: and that he himself entertained no apprehension as to the result of his conduct, was at least to be presumed from the readiness with which he courted inquiry into it. The main feature in the case then came out to be considered—to wit, what there had been in the conduct of other persons apart from that of the Duke of Manchester, which afforded grounds for complaint; and upon that point he was free to say that Government had at least so far thought there was ground for investigation, that the commissioners in the West Indies had received instructions (and in about a month, hence they would be in Jamaica) to examine into all the circumstances, and report generally upon the transaction. In this situation, therefore, he was not prepared to deny that further elucidation upon the subject was due to the satisfaction of the house; but if the motion of the learned member for a committee were agreed to, it ought in fairness to be understood that the Duke of Manchester's offer with respect to a trial at law ought not to be taken

advantage of. It was farther to be recollected, that at so late a period of the session, and considering the distance from which all evidence would have to be obtained, no committee could be appointed with any advantage until next year. If it were agreed to defer the committee until next session, the report of the commissioners, and all other necessary evidence could be procured in the meantime, and there would be no difficulty then in instituting an inquiry as ample as the learned member could desire.

Mr. Brougham rose to request his learned friend to accede to the proposition of *rt. hon. gent. opposite*, which he thought, the state of the session considered, was the best calculated to do substantial justice. As the evidence stood, the transaction was a most iniquitous one, and he totally differed from the *rt. hon. gent.* as to the view which he took of the conduct of the Duke of Manchester. These three points would have to be made out—first, that there had been proof that the complainants were aliens; secondly, that there had been the sedition imputed; and thirdly, that there had been ground for sending them away without being heard in their defence. Now, as the case stood, it was nonsense to talk of conflicting evidence; the proof of the birth was as clear as could be desired. What might arise out of the papers further to be produced, he could not judge; but the matter stood as he described it at present. With reference to the postponement of the committee he would farther just observe, that there were two witnesses whom it would be necessary to produce, and who had been in England some time. Those persons had hitherto been supported by the charitable contributions of individuals; but certainly, as this delay was to take place, some means of existence ought to be afforded them by Parliament. For the other point to which the *rt. hon. gent. opposite* had adverted—the abstaining (an inquiry was to take place in a committee) from any proceeding at law—he agreed that such an arrangement would be most convenient; but it must depend upon the consent of the complainants concerned.

Mr. Canning objected to one of the suggestions of the learned *gent.* on account of the bad example it would set if the guilty accusers of an innocent man were to be supported by the public money.

Dr. Lushington, in reply, called upon the house to consider the condition of the injured parties, and what they were exposed to, in their destitute condition, by this new delay. He was ready to adopt the proposal of the *rt. hon. gent.* (Mr. Canning) for appointing a committee next session; but he did that in the reliance of every facility being afforded for the obtaining and production of evidence. For the sentiments which had been expressed in a pamphlet, written upon the question (by the *hon. member* for Chippenhams)—for such sentiments as would deny men justice on account of a prejudice against their colour, he thought they could excite no feelings in the mind of any civilized being but those of disgust and unmitigated contempt.

Mr. Grossett said, that whatever contempt the learned member might feel for his opinion was fully equalled by that with which he looked at that of the *hon. and learned member*. He denied that he had ever felt any dislike or hostility to the welfare of the people of colour.

The postponement of the committee was then agreed to without a division.

### *Mr. Shrewsbury's Case.\**

THURSDAY, JUNE 23.—Mr. F. Burton rose to call the attention of the house to the case of Mr. Shrewsbury, a minister of the Wesleyan Society, who was engaged in their mission in the West Indies. It would, he said, be his duty to confine himself very much to a matter of fact detail; to give a plain, dry, abstemious narrative of the events, in the order in which they occurred, leaving those events to speak for themselves—as they did indeed, pretty loudly. Mr. Shrewsbury was, for some time, a Methodist minister in England; and conducted himself entirely to the satisfaction of those with whom he was connected. In the year 1816, he was sent as a Missionary to Tortola. He remained there two years; and, on his departure, Mr. Porter, then Senior Member of Council, now President of the Island, presented him with this testimony:—"I do hereby certify, that the Rev. William Shrewsbury, a preacher in the Wesleyan connexion, resided in this Island for about two years: during which time, his conduct was such as entitled him to the respect of this community."

"GEO. R. PORTER."

"Tortola, April 7, 1818."

In 1818, Mr. Shrewsbury went to Grenada. After he had been there somewhat more than a year, he applied to the Governor, Major-General Rial, for his private subscription towards the erection of an enlarged chapel. The Governor's answer, sent through the hands of his Secretary, Col. Wilson, contained a check for 60*l.*, the Governor's donation, and 10*l.*, the donation of Col. Wilson; and concluded with these words:—"In making this communication to you, I am likewise desirous to convey to you his Excellency's approbation of your general conduct, during the time you have resided in this Government; and particularly of the mild and temperate manner which has marked the exercise of your religious duties."

"J. WILSON, Lieut-Col. Secretary."

Mr. Ross, of Clarke's Court, Grenada,—thou whom, he (Mr. Buxton) understood, there was not a more respectable man in the West Indies—the proprietor of one large estate, the manager of twelve others, and having under his superintendence a body of between two and three thousand negroes, having daily opportunities of witnessing Mr. Shrewsbury's conduct while in that Island, thus wrote of him, in a private letter, at the time:—"Mr. Shrewsbury is a superior man, who would do honour to any Church or Society of Christians." This same Mr. Ross happened to be in England, when the news arrived of the disturbances in Barbadoes, and he had the generosity to write this testimony:—"Having had an opportunity of becoming intimately acquainted with Mr. Shrewsbury during his residence in Grenada, whence he went to Barbadoes, I can with great truth testify, that I never knew a more pious or a better man. Possessed of a natural cheerfulness of temper, and without any thing of austerity or moroseness in his manners, he discharged the duties of his profession with zeal and assiduity, and acquired the good-will and esteem of the

\* This debate is published from the newspapers and the "Authentic Report, &c." London, Hatchard, 1825.

whole community; and it was to the great regret of all who knew him, that he was taken from us. I believe Mr. Shrewsbury to be incapable of doing an injury to any human being; and I am convinced he was eminently useful as a Christian minister, both among the free people and the slaves, in the Island of Grenada." Mr. Shrewsbury had devoted himself labouriously to the improvement of the negroes, and with the best effects. Instruction was gaining ground; marriages became more frequent; the marriage tie was held more sacred; a more orderly and moral deportment was observed among the negroes; and, in short, many of those changes so much desired by the house—so ardently looked forward to by the people of England—but not more ardently, he felt it but justice to say, than by many benevolent and respectable planters, followed his ministry. But, while he had devoted himself to the improvement of the negroes, he had won the confidence and esteem of the planters; and left the Island with the love of the slaves, the approbation of the masters, and universal testimonies of regret at his departure. In 1820, Mr. Shrewsbury went to Barbadoes, where a spirit of fierce religious persecution had long prevailed. The papers laid on the table of the house, in 1802 and 1805, gave a painful demonstration that it existed then: and it would appear but too clearly, before he sat down, that the same spirit prevailed, or rather raged, at the present moment. The Mission there required a man possessing great, but opposite qualities—great prudence, or he would do too much in the eyes of the planters—great zeal, or he would do too little for the slaves—great fortitude, a deep impression in his own heart, of the paramount importance of the duties he had to discharge:—without these, he would assuredly have been crushed by the opposition he was certain to encounter. But withal, that mission required a man of a meek, quiet, uncontentious spirit—calculated, by his gentleness, to subdue and soften those unfortunate jealousies and prejudices. These were Mr. Shrewsbury's qualifications; and, besides, it happened, most fortunately, that he was married to the daughter of a West India planter; and thus, in some degree, linked to the West-India interest. He was any thing rather than a warm partizan of the Abolitionists. Although he was subsequently accused of being an agent of the "villainous African Society," and particularly of corresponding with him (Mr. Buxton); and he understood, that persons in the West Indies, who ought to be respectable, had asserted, that they had seen letters which had passed between them. To this, he (Mr. B.) answered, that he never received or wrote a letter to Mr. Shrewsbury in his life—that he did not know that such a man existed, until he happened to take up a newspaper, and there read, with some astonishment, that he was going to be hanged for corresponding with him. It might here be as well to state—it might allay jealousies—that with the Missionaries in the West-Indies—Church of England, Wesleyan, Moravian, or London Society—he had had no communication. Indeed, he was told by one of the heads of those Societies in England, that though they agreed with him in their feelings about slavery, yet, standing in a peculiar situation, and trusted with the confidence of many of the planters, they did not feel justified in furnish-

ing him with any calumnious intelligence. He blamed them for this. They ought to have told the truth, whether it made for or against the system. But, it was hard that they should be blamed by him and his friends for saying nothing, and by other parties, for saying a great deal too much. But, to proceed. In this peculiar predicament, and wanting a man of such peculiar qualifications, the Wesleyan Missionary Society selected Mr. Shrewsbury. During the whole time he remained in Barbadoes, he justified their choice—exhibiting the same moderation, forbearance, discretion, abstinence from all political interference, which becomes a minister of religion at all times and in all countries, but which are indispensable in a minister of the Gospel, placed in circumstances so difficult, and having to tread so narrow a path, as that which was chalked out for a pastor of slaves in a society of planters. He should be able to shew, by indisputable documents—such as satisfied the Governor of St. Vincent, with whom Mr. Shrewsbury found an asylum, and who was bound to ascertain his innocence, before he permitted him to preach in his government—that, during the whole time he exercised his ministry in Barbadoes, he exercised the same discretion, and forbearance, and silence upon slavery; and preached nothing to the negroes, but obedience and fidelity to their masters. But, this point would not be disputed. He said so confidently; because Mr. Shrewsbury's enemies had ransacked his life, private and public, in order to find some excuse for their cruelty towards him. They had found nothing: and he stood delivered over to universal execration, and under sentence of banishment—but uncharged with any offence in his conduct, his conversation, and his doctrine. In Feb. 1820, Mr. Shrewsbury went to Barbadoes. In the March following, he wrote home, as he was required to do by the rules of his Society, stating the condition in which he found his congregation. A painful description no doubt it was, and must have been, if he spoke the truth; but, in that letter there was nothing harsh, exaggerated, or sarcastic. Now, it might be said, and probably, as the Under Sec. for the Colonial Department had nothing else to say, he might maintain, either that that letter ought not to have been required from him—or, being required, he ought not to have sent it—or, being sent, it ought not to have been published. That was a doctrine which could be maintained by no member of the house; but, least of all, by the hon. Sec. for it so happened, that Lord Bathurst, the whole body of the Clergy in the West Indies, and that house, had done precisely the same thing. In 1816, Lord Bathurst addressed a circular to all the Clergy in the West Indies, requesting to know the moral and religious condition of the negroes. The Clergy sent their answers—true, no doubt; but containing statements infinitely more affronting to the planters, and more mournful to every friend of humanity, than any thing to be found in Mr. Shrewsbury's letter; and these answers were published by the house. In point of fact, however, this letter had nothing to do with subsequent events. It was not heard of in the colony for three years, even by Mr. Shrewsbury; and was only raked up at last, when an excuse was wanted for a persecution. Mr. Shrewsbury remained in the Island three years and three quarters. During the

first three years and a half, he had to endure the common lot of a Methodist Missionary—some persecution, or, if that were too hard a term, some annoyance, some detraction, some bitterness of spirit, evincing itself in petty insults. For example: some of the gentry of Barbadoes felt it to be their duty to walk into his chapel on Sunday, during the time of service, with their hats on, whistling a tune, and keeping time to their own music, by drumming against the benches. In short, something of that little, pitiful, spiteful ignominious warfare, with which men of paltry minds love to vex those whose stricter lives are a comment and a reproach upon their own. But for these slight insults Mr. Shrewsbury had full compensation, in an increasing and improving congregation—in a very large school for mulatto and negro children—in the favour of several respectable planters—and in the approbation of the Clergy. In June 1823, a fiercer spirit of persecution arose. Mr. Shrewsbury was publicly accused in the streets, in open day, as a villain; and this, as he said, not by the mere rabble, but by the great vulgar—merchants from their stores, and individuals in the garb of gentlemen. He was assailed in the newspapers, under the name of “Mister Rascall,” and his antagonists were under the necessity of bearing testimony to the purity of his conduct. “Look at his actions,” they said; “hear his sermons, and you would say the man is a saint!”—“Observe him, hear him; but, under this garb of sanctity, by his praying, preaching, and teaching, he is undermining the West-India interest; and is very little better than an enemy of slavery.” He bore this, as his religion taught him to bear it, with the utmost humility. “He was as a deaf man, that heard not,” was his own true description of his behaviour. On Sunday, Oct. 5, 1823, riot the first took place. A large concourse of persons assembled round the chapel, for the avowed purpose of disturbing the congregation. They came provided with a number of thin bottles, filled with oil, assafoetida, and aquafortis, prepared, as there was every reason to think, at the shop of one of the magistrates, who was a chemist and druggist. These bottles were suddenly discharged into the midst of a congregation of some hundreds of females. One of them was aimed at Mr. Shrewsbury’s head, and narrowly missed its mark, but wounded another man. A second was wounded in the shoulder; and one of the bottles discharging its contents on the bosom of a mulatto female, burnt her severely. A lawyer, Mr. Newsome, chose his decorous station on the railing of the communion table, and cheered and encouraged the rioters. Two sons of the magistrate and chemist were seen conspicuously active. Upon this discharge, the utmost confusion arose. The females were greatly alarmed; and, in point of fact, one-third of the congregation ran away. The preacher retired into the vestry, in order to protect his wife, who was near her confinement. Having placed her in security, he began to shew somewhat of the manliness of his character. He returned to the chapel, reascended the pulpit, and, amidst the rattling of stones without and almost suffocating heat within, the windows being closed, resumed and concluded the service. The next day, he offered a reward of thirty pounds for the detection of any of the rioters; but no one came forward to give evi-

dence; and he soon found, that the interruption met with general approbation. Passing by the shop of a considerable merchant, where a number of gentlemen were collected, he was assailed by such remarks as these—“Serve the fellow right.” “They ought to have gone and pulled the fellow from the pulpit.” And a magistrate, who was also senior member of the council, told a person of credit, that “If a sufficient number would join him, he would go and pull down the chapel at noon-day.” The name of this magistrate was Mr. Haines. He mentioned it, not only to do him honour, but for the purpose of remarking, that persons in a higher station of life were the real instigators of the events which followed; and for the purpose also of stating, that this same Mr. Haines continued a magistrate, and, as a magistrate, was the protector of the negroes, the dispenser of justice to the mulattoes, and the guardian of the public peace. On the Wednesday evening, Mr. Shrewsbury had his usual week-day service, and experienced somewhat of the same kind of disturbance; but not to the same extent. On the Friday, which was kept in Barbadoes as a fast-day, in commemoration of the great storm of 1780, the good joke which he heard from all quarters was, “While you are preaching of the storm within doors, you shall have a storm without.” On Sunday, Oct. 12th, while he was preparing for service, one of his congregation came to him privately, and stated, that something desperate was intended that day. He, however, determined to proceed. He went down to the chapel; what he saw, should be told in his own words:—“As I came down from the dwelling-house, and entered the side door of the chapel, the sight was really intimidating. Without the chapel; and throughout the whole length of the street, there was an immense concourse of people, some breathing out threatenings and slaughter; and others merely lookers-on: within the chapel, besides a fine congregation of my regular and serious hearers, there were planted all around the pulpit, and by the pulpit stairs, from 20 to 30 of the gentlemen-mob, apparently ready for any mischief, when those without should make a beginning. Just as we arose from prayer, two men, wearing masks, and having swords and pistols, came galloping down the street; and, presenting their pistols opposite the door, they fired; but only one pistol went off, and that discharged its contents, not within the door amongst the congregation, but without, beside the window, so that the men planted round the pulpit were completely disappointed: for it seems the design was to have fired crackers amongst the females, to set their clothes on fire; when advantage would have been taken of the confusion, to have wreaked their vengeance on me.” It so happened, that two officers were at the chapel that evening, and their servants were holding their horses outside. These men, having none of the feelings of true Barbadians, but feeling as every Englishman would feel under such circumstances, pursued the authors of the outrage and put them to flight. This attack disconcerted the intention of the rioters, and possibly saved the life of the Missionary. Tranquillity was restored; and Mr. Shrewsbury finished the service. In this mob there was not a negro—not a mulatto. It consisted of planters, merchants, and traders. If the population were divided into four parts—they

would form the second and third—neither the very highest nor the very lowest. On Wednesday, the 15th, Mr. Shrewsbury determined to hold his usual service; but so large a concourse of persons assembled, and their conduct and language were so alarming, that he was glad to escape to the house of a relation; and he never afterwards returned. To shew how planned and organized the whole thing was, a party of gentlemen galloped down from the race-ground at seven o'clock, drew up in front of the chapel, and seeing the windows and doors closed, cried out, "the coward has fled; the coward has run away;" and retired, amid the plaudits of the mob. The next day Mr. Shrewsbury waited on the Governor; and as there was some slight immaterial difference between the report of the Governor and of Mr. Shrewsbury, as to what took place at that interview, he should follow the version of the Governor in all points in which they differed. After introducing himself, Mr. Shrewsbury said, "My congregation are not suffered to worship God in peace." The Governor advised him to apply to the magistrates: Mr. Shrewsbury said, "There can be no use in applying to the magistrates; they are among the bitterest of my enemies; and nothing can prove it more than this: three years and a half have I been in the colony, I have never been summoned to serve in the militia, but now that the mob are bearing me down, the magistrate, instead of affording me protection, summons me to a meeting, where he knows that if I appear I shall lose my life." Mr. Shrewsbury retired, saying, "In applying to your Excellency I have done my duty; I can do no more." But the Governor, it seemed, still thought that he would apply to the magistrates. That was his apology, and let it pass for an apology. He (Mr. B.), understood that the Governor was a very respectable man, and wished to perform his duty; but he was placed in circumstances in which any man might be embarrassed and overawed. Besides, he was very unpopular at that time; and the cause of his unpopularity was remarkable. A planter, named Best, had, a short time previously, flogged a negro to death. He absconded, and a reward was offered for his apprehension. Another planter seeing a woman plucking a few handfuls of guinea-grass, fired at her. The ball lodged in her back, and she died. He left the island, and a reward was offered for his apprehension. A white man was found dead in a wood. He was a man of dissolute and drunken habits; and the Governor, thinking he had fallen a victim to his own intemperance, offered no reward for the apprehension of the murderers; upon the very intelligible ground that he did not think a murder had been committed. This gave great offence. It was said, "Here is notorious partiality—a slave or two are unfortunately killed, and a reward is offered; but now one of our own body, a white man, is found dead, and no reward is offered for the perpetrators of his death"—the perpetrator being in all probability the rum-bottle. The Governor was unpopular—he could do nothing; at least he thought so. He treated Mr. Shrewsbury very kindly; he said, "I am extremely sorry for you—I wish you well—I have been abused more than any man in the colony—and the arm of protection extended to you would be represented as an arbitrary act." Mr. Shrewsbury did not apply to the

magistrates; and as this was the only occasion in which there was any pretext for charging him even with an error of judgment, he, (Mr. B.) would inquire, whether he ought to have applied to the magistrates. To which of them should he have gone? To Mr. Haines, who said he would lead the way, and pull down the chapel at noon-day? To Mr. Moore, who summoned him to answer, for not having enrolled himself in the militia, before the court, where to appear was to perish? To the magistrate at whose shop the bottles were prepared? To Mr. Newsome, the lawyer, or to Mr. Walton, jun. of whom he would say something presently? To address himself to these was to address himself to the bitterest of his enemies. Nor would it be believed that those magistrates, who did not interfere when the rioters were in action, would have interfered, from the mere rumour of a riot, coming from so suspicious and obnoxious a quarter as Mr. Shrewsbury. But Mr. Shrewsbury did seek council and assistance; and he sought it in a remarkable quarter. This fierce sectarian, plotting the destruction of the church, and living in bitter enmity with its professors, went to a clergyman, whose kindness then displayed to a poor friendless missionary, hunted for his life by an infuriated mob, he, (Mr. B.) would now return—by concealing his name; knowing, that if he were to mention it with approbation, the fate of Mr. Austin of Demerara would await him. Mr. Austin, for the most noble act which had been done in our days, was a ruined and a banished man; and he spared the name of the other, in order to spare him—the honour, indeed, but—the sufferings of martyrdom. The clergyman advised Mr. Shrewsbury to apply to the Council—observe, he did not recommend an application to the magistrates, he knew them—and, in the interim, he recommended that the chapel should be closed. Mr. Shrewsbury, in both particulars, followed his advice, though somewhat contrary to his own judgment. He was rather disposed to brave the storm. He determined to apply to the Council, which was to meet in the ensuing week; and the next Sunday his chapel was closed, and he, with as many of his congregation as he could collect, attended the Established Church. Had matters stopped there, it would have furnished the most perfect sample of intolerance, save the sister case in Demerara, which had been exhibited for many a day, in any part of the British dominions. Had it stopped there, it would have deserved, indeed, the name only of a riot, but a riot of the worst spirit; and, considering where it was—in the heart of a negro population; when it was—at the moment when the minds of the negroes were agitated by rumours of conceded liberty—a riot of the most dangerous kind. But subsequent events cast all these transactions into the shade. Hereafter it assumed a new form, and exhibited a contempt of law, a defiance of authority, which changed the name and character of the transaction. On Friday, the 17th, a secret committee had met, and issued a circular, which, for distinction's sake, he would call "proclamation the first." It stated, that the gentry and inhabitants of Barbadoes had determined to meet, on the following Sunday, for the purpose of pulling down the Methodist chapel; and it invited the person to whom it was addressed, to appear in his place, properly provided. The proclamation had its effect. They met. There was not

a negro amongst them—there was one mulatto, and only one. To shew the feelings of the coloured population, on whom the safety of the colony, in a great measure, rested, and to offend whom, was to risk the safety of the island, it was only necessary to state, that though they behaved with the most perfect propriety, had never repelled force by force, or outrage by outrage; yet so sensibly had they felt this insult, that no one of them had held any intercourse, or exchanged a single syllable with that man of their number, who joined the rioters. These consisted of whites, and were headed by persons of influence. The mob consisted, said the Governor, "of an immense concourse of persons." It consisted, said an eye-witness, a planter, an enemy of Mr. Shrewsbury, of "a thousand head-strong fools." Mr. Shrewsbury, with that indisposition to exaggerate, which had marked all his communications with him, (Mr. B.) said that he thought the numbers had been exaggerated—that they did not exceed four or five hundred; part of whom came provided with implements to pull down the chapel, and part armed with swords to resist the military. That they were thus armed, he stated; first, on the authority of Mr. Shrewsbury; but, secondly, on the better authority of the planter already alluded to, who said, "I am just returned from witnessing the effects of an infuriated mob of head-strong fools, so desperate that they had determined to resist the military." And the Governor put it out of all question, by saying, "the chapel was pulled down by an immense concourse of persons, many of whom were armed." They broke open the windows and doors of the chapel, destroyed the benches, pews, and pulpit, and tore and trod under foot, a large collection of bibles and tracts, intended for the use of the negroes and the school. They then stormed the dwelling-house, destroyed every article of furniture, chopped in pieces the tables and the chairs, unroofed the house, and, making a flag of his lien, which they had collected, waved it in the air three times, gave three cheers, and, it being now twelve o'clock at night, and they having been occupied laboriously for five hours, they adjourned until seven o'clock the next evening. At that time they met, according to appointment, in the same number, with the same spirit, with the same discipline, and completed the demolition of the chapel. "High-handed work," said the editor of a colonial paper—"High-handed work" he headed his article—"The Methodist chapel in Bridge-town has shared the fate of the temple of Jerusalem—not one stone is left upon another." The victory being thus obtained, nothing remained but to announce it in due form. And accordingly, announced it was the next day, in these terms:—

"Great and signal Triumph over Methodism, and total Destruction of the Chapel!!!

*Bridgetown, Tuesday, October 21, 1823.*

"The inhabitants of this island are respectfully informed, that, in consequence of the unmerited and unprovoked attacks which have been repeatedly made upon the community by the Methodist Missionaries (otherwise known as agents to the villainous African Society), a party of respectable gentlemen formed the resolution of closing the Methodist concern altogether; with this view they commenced their labours on Sunday evening; and they have the greatest satisfaction in announcing, that by

twelve o'clock last night they effected the total destruction of the chapel. To this information they have to add, that the Missionary made his escape yesterday afternoon, in a small vessel for St. Vincent; thereby avoiding that expression of the public feeling towards him, personally, which he had so richly deserved. It is to be hoped, that, as this information will be circulated throughout the different islands and colonies, all persons who consider themselves true lovers of religion will follow the laudable example of the Barbadians, in putting an end to Methodism and Methodist Chapels throughout the West Indies."

The next day the Governor issued his proclamation, offering a reward for the detection of the rioters; but the entreating, almost supplicating language, in which it was couched, clearly proved that the mob were masters. The real tenor of it was, "Pray, gentlemen, recollect yourselves. If you are pleased thus to pull down the houses and chapels of the teachers of the negroes, who can tell but that the negroes may follow the example, and pull down your houses?" Having thus, as he hoped, seduced the more respectable into a belief, that, upon the whole, it were as well, for the sake of example, not to pull down innocent men's houses, he ventured to offer a reward for the apprehension of the offenders, and ended in the usual form, "God save the King!" The next day the rioters put forth a counter-proclamation, mimicking that of the Governor, beginning, "Whereas," &c. and ending "God save the King and the people." But, if they mimicked the form, they by no means attempted to imitate the very humble strain in which the Governor's proclamation was couched. Bold defiance of the law—vengeance, desperate retaliation against any who might dare to inform—a boast, that they had done the deed, and would do it again, if opportunity occurred—a boast, that perjury would protect them, was the bold tenor of proclamation the third. It ran thus:—

*"Bridgetown, Barbadoes, October 23, 1823.*

"Whereas a proclamation having appeared, &c. &c., public notice is hereby given to such person or persons who may feel inclined, either from pecuniary temptation or vindictive feeling, that should they attempt to come forward to injure, in any shape, any individual, they shall receive that punishment which their crime will justly deserve. They are to understand, that to impeach is not to convict, and that the reward offered will only be given upon conviction; which cannot be effected whilst the people are firm to themselves. And whereas, it may appear to those persons who are unacquainted with the circumstances which occasioned the said proclamation, that the demolition of the chapel was effected by the rabble of this community, in order to create anarchy, riot, and insubordination, to trample upon the laws of the country, and to subvert good order: It is considered an imperative duty to repel the charge, and to state; firstly, that the majority of the persons assembled were of the first respectability, and were supported by the concurrence of nine-tenths of the community; secondly, that their motives were patriotic and loyal, namely, to eradicate from this soil the germ of Methodism, which was spreading its baneful influence over a certain class, and which ultimately would have injured both church and state. With this view the



chapel was demolished, and the villanous preacher, who headed it and belied us, was compelled, by a speedy flight, to remove himself from the island. With a fixed determination, therefore, to put an end to Methodism in this island, all Methodist preachers are warned not to approach our shores; as, if they do, it will be at their own peril. God save the King and the People."

When the governor saw this proclamation, he asked the council what he should do? and they answered, "Nothing at all!"—and, nothing had been done.—To return to Mr. Shrewsbury:—He had retired, on the Wednesday, to the house of a relative. On the Sunday evening he received information, that the mob declared; that as soon as they had finished the chapel, they would proceed to the house of his relation, search it, and, if they found him, hang him. Having no reason to doubt that they would be as good as their word, he retired to a house at a short distance from the town, and nearer the sea. His wife, who was not in a condition to move, was concealed in the hut of a negro. In the middle of the night some horsemen galloped up to the house which he had left, crying out, "Down with the Methodists! Down with all the Methodists!" But no attack was made. The next morning Mr. Shrewsbury received communications from many of his friends, all saying, "leave the island without a moment's delay; no man's life was ever in greater danger; the rioters are in search of you; and if they catch you, will undoubtedly put you to death." Upon this intelligence, taking his wife with him, little as she was in a condition to move, he embarked on board a small vessel, and sailed for St. Vincent's. In the passage his wife was taken ill, and was delivered shortly after her arrival at St. Vincent's. And here he (Mr. B.) must observe, that a sense of his wrongs and of his innocence—the loss of every shilling of his property—the destruction of his chapel—the extermination of his mission—it would, he repeated, have been but human nature, if these bitter recollections, rushing upon his mind, at the moment of his leaving, had driven him, as oppression driveth a wise man mad, so far to forget himself, as to pour forth execrations upon the head of his tormentors. He did write a letter; and, such a letter!—not an angry word in it; not a complaint—not an unmanly lamentation—no attempt to stir up the passions of the negroes. He just glances at his sudden departure, and then leaves that irritating topic. This is part of the letter:—

"Be patient towards all men. Never speak disrespectfully of any in authority, nor revilingly of any one who injures you. Whatever you are called to suffer, I beseech you to take it patiently. In general, it will be best for you to be wholly silent. From the affection you bear towards me, you will, perhaps, find it difficult to refrain when you hear me spoken against: but your wisest plan will be to hold your peace, for you would be in great danger of speaking with undue warmth, were you to undertake to defend my character. You that are slaves will, I hope, be exceedingly careful 'to adorn the doctrine of God our Saviour in all things.' Let no slave who is a Methodist be dishonest, or lazy, or impertinent either in speech or behaviour: but let every one be sober, honest, industrious, and useful to his owner, even as we have taught

you both in public and in private, from day to day. And as to political matters, whether ye be bond or free, never meddle with them; but mind higher and better things, the things relating to God and eternity. Never speak slightly of the regular clergy. In this respect imitate the example I set you while I dwelt among you."—On Mr. Shrewsbury's arrival at St. Vincent's, he applied to the Governor, who received him very kindly, but told him, that he considered him as coming under circumstances of suspicion, and that he must suspend him from the exercise of his clerical duties for the present. In consequence, Mr. Rayner, another missionary, went to Barbadoes, in order to collect testimonials. And this gave a new opportunity for exhibiting the spirit which prevailed there. He was not permitted to land. He learnt, at one time, that it was proposed to burn the vessel; at another, that boats were to be manned from the shore, to drag him from the vessel, and put him to death. And Mr. Walton, jun., then, but not now, a magistrate; for he met with an unfortunate accident: he was one night caught in company with Mr. Newsome, the lawyer, in the act of breaking the windows of a bearer of the Methodists, and, in consequence, ceased to be a magistrate.—Mr. Walton came on board the vessel, and gave them a second edition of the proclamation. He warned Mr. Rayner to be gone in four-and-twenty hours, or he must take the consequences. So alarmed was the captain, that he removed from Carlisle Bay, where he had anchored under the guns of a ship of war, and the officers of the vessel went on shore. They waited upon those persons of respectability, who had known most of Mr. Shrewsbury, but such was the terror that prevailed, that many of them refused to give testimonials, saying, their lives would be in danger. Others did give some, but in fear and trembling, and under a pledge of the concealment of their names. These testimonials, nine in number, were exactly what one would have expected. "I solemnly declare," said the first, "that I never heard Mr. Shrewsbury utter one word, tending to insubordination." "As to the negroes," said the second, "he was always particular in teaching them their duty to their masters, as part of their duty to God." They all ran in the same strain. With these testimonials Mr. Rayner returned to St. Vincent, and delivered them to the Governor. So satisfied was he with them, that within an hour Mr. Shrewsbury received a letter from him, stating, that he was at liberty to preach in any part of his government; and he preached accordingly the next day. Mr. Shrewsbury remained for some time in that island, but was now in England. At Barbadoes the ferment continued. They had then time to refer to the paragraph in their second proclamation: "It is hoped, that as this information will be circulated throughout the different islands and colonies, all persons who consider themselves true lovers of religion will follow the laudable example of the Barbadians, in putting an end to Methodism, and Methodist chapels, throughout the West India." And, accordingly, they sent a deputation, consisting of from eight to ten persons, to the neighbouring islands, in order to induce them to follow the laudable example of Barbadoes, and pull down the chapels. This commission landed at Tobago, stated their object, and the Governor

ordered them to be gone in an hour. They landed at Trinidad, the Governor ordered them off in five minutes, and, at Grenada, they met with a still more inhospitable reception. The governor sent a body of soldiers to take them into custody, if they landed. They returned, therefore, to Barbadoes, from a very unsuccessful embassy. In that island things remained very much in the same state. They determined to celebrate the anniversary of the demolition of the chapel, by a similar outrage. The particulars were contained in the Governor's despatch, dated Dec. 2d, 1824.—"It was intended and proclaimed most publicly to meet in honour of the anniversary of the destruction of the Methodist chapel, and to pull down a house belonging to a coloured Methodist woman, who held meetings in her house; in consequence of which I ordered the whole of the military, town-militia, and life-guards, to be prepared and under arms on the evening of the day so proclaimed, and the magistrates to assemble near the spot before dark." It was "proclaimed most publicly;" and the house would like to hear the terms of the proclamation. It beat all the others. It stated, that the actors in the former scene had formed themselves into "a Committee of Public Safety;" that they had taken the name of "the Worthy." It invited the Worthy to meet "in love and harmony," on the 19th of October, and after dinner to proceed to pull down a house, "where Methodism began again to rear its hideous head." The Worthy were enjoined to come armed, that in case "any of the pest should resist, they might be sent to sleep with their forefathers." They were animated to their enterprize by the memory of the former 19th of October, "a day more dear to true Barbadians than Trafalgar to Britons." The whole concluded with a solemn oath to extirpate Methodism from the island "by fire and sword. So help us our God! (Signed) Rock."—The Governor, however, was upon the alert. He ordered out the military; and the 19th of October passed ingloriously. But the spirit of persecution was not extinct. In April last, the Missionary Society sent some of their number to Barbadoes to rebuild the chapel, with the concurrence of Lord Bathurst, and of the hon. Sec. (Mr. W. Horton), as appeared in the Barbadoes newspapers; but they were not permitted to land. Lord Bathurst's attempt to afford protection to the Methodists was described as the most "unlooked-for, uncalled-for, absurd, and dangerous measure, ever contemplated by a British minister." It was said that "the genius of Puritanism had spread its malign influence over the whole cabinet." However, he (Mr. Buxton) made light of all this. He rated it all as nonsense and idle gossip. But there was a fact stated to which he attached importance. It was stated, that the House of Assembly, who, he it remembered, had never stirred a step to bring the rioters to justice, had moved at last, and ordered a prosecution against a Methodist woman, who had devoted herself, most virtuously, to the instruction of the negroes, for the crime of holding religious meetings. The paragraph stated, that "the House of Assembly had ordered a prosecution to be instituted against a mulatto woman, for holding public meetings of this description; whilst his Excellency the Governor, in compliance with Earl Bathurst's instructions, had issued a second circular to the magistrates,

calling upon them to afford every protection in their power, even aided by the military, to the reverend vagabonds above alluded to, which had a very portentous meaning, and which might God in his infinite mercy avert!" Now, could any thing exceed the effrontery of all this? Was there ever such a train and cluster of enormities? Looked at, in one view, it was religious intolerance, at its highest point of phrenzy; fire and faggot persecution. Looked at in another, it was unblushing contempt of authority, defiance of law, a triumph not merely over Methodism—that many gentlemen would approve—but a triumph over the Governor there, over parliament, and over the feeling of the people of England. He defied any lawyer to deny, that overt acts of rebellion had been committed. The people were invited to attend a meeting to pull down a chapel. They met, and pulled down the chapel—armed to resist the military, and to send any of the "pest" who might interfere "to sleep with their forefathers." Proclamation after proclamation was issued, full of defiance to legitimate authority, breathing the spirit of revolt, or rather of triumphant and predominant rebellion. Embassies were sent forth; ambassadors of persecution, to stir up the embers of civil commotion and religious discord in the neighbouring islands. A committee of public safety, on the French plan, was appointed. Captain Rock, on the Irish model, signed the manifesto. Unoffending men, bearing the passport and safe conduct of the Secretary of State for the Colonies, were not permitted to land in them. And, so little of penitence was there, that the day of Mr. Burewsbury's sufferings was dedicated to triumph, as a day "more dear to true Barbadians, than Trafalgar to Britons." Now, the rt. hon. Sec. for Foreign Affairs, once told the house, that if he experienced resistance from the West Indies, partaking of the nature of contumacy, he would come down to parliament for counsel and assistance. And was not this contumacy with a vengeance—unbridled, unveiled contumacy—contumacy pushed to its extremest point? What was it called by the authorities in the island? The council, planters themselves, under the influence of planters, and in awe of the mob, called it "a disgraceful outrage." Lord Bathurst, who always answered the exasperated language of the colonists in the mildest and most gentleman-like terms, called it "a daring and scandalous violation of law." The Governor, helpless as he was, almost shorn of his authority, called it, in his despatch, "an outrageous violation of law and order, defeating the ends of civil association,"—rendering the laws "a scourge to the weak," pregnant with "the very worst consequences, and the most evil example" in a society of slaves, and "such as, if it were suffered to pass unpunished, would render every man unsafe, in person and in property, delivered over to the mercy of a mob." And this he said upon the first outrage, which was aggravated, a hundred fold, by what had since occurred. Now, the question which he (Mr. B.) wished to propound was—Should it pass unnoticed and uncondemned? He asked no punishment. He wished every blessing to the planters, and more especially, the blessing of a tolerant and peaceable spirit. He asked only—first, that law should be re-established in Barbadoes, after a long interregnum: secondly,

that those who pulled down the chapel should build it up again: and, lastly, that law and justice, protection and toleration, should be secured to all his Majesty's unoffending subjects, in all parts of his dominions. Before he sat down he would compare the case of Smith, the missionary in Demerara, with the case of the magistrates of Barbadoes. He would put, side by side, the crime of Smith and his punishment, and the crime of the magistrates of Barbadoes and their punishment. Mr. Smith knew that a disturbance was approaching, half an hour, as some witnesses said; a quarter of an hour, as others deposed—before the insurrection began. That was his crime. The magistrates of Barbadoes were summoned before the Council, and asked, "Did you know that a riotous assembly had collected at the Wesleyan chapel, for the purpose of pulling down that building, and that they were actually engaged in destroying it?" "I did," was the answer of every magistrate who was in town at the time. So far, then, they stood in a parity of guilt. Mr. Smith did something. He remonstrated with the rioters, till his remonstrances were checked by a presented blunderbuss: but still he saved the life of Hamilton, the manager. "Did you," the magistrates were asked, "make any effort to disperse the meeting, and prevent the destruction of the chapel? Did you, Mr. Gill?" "I used no effort."—"Did you, Mr. Wickham?" "I used no effort."—"Did you, Mr. Grant?" "I used no effort on either of those nights."—"Did you, Mr. Walton?" "I used no effort on either of those nights."—"Did you, Mr. Waith?" "I made no effort, aware that it was useless." Here, then, Mr. Smith had the advantage of the magistrates. He did something; they nothing. Mr. Smith made no communication to the Governor, the time and the distance rendering it physically impossible. The magistrates were asked, "Did you make any communication to the Governor on the subject?" "I made no communication to him," was the answer of them all. The poor, reviled missionary, holding no commission, charged with no responsibility, at ten miles distance from the Governor and the military, because he did not communicate with the rapidity of a telegraph, was sentenced to be hanged by the neck until he was dead. And the magistrates, the responsible authorities of the town, in the neighbourhood of the barracks and the Governor, confessing that they knew every thing, did nothing, communicated nothing, were sentenced to this punishment—"the Council declared their opinion, that the conduct of the magistrates was reprehensible, with the exception of Mr. Moore and Mr. Waith, who lived in the country."—"The Governor then inquired what the privy council thought should be done on the occasion, when the board advised, that his Excellency's displeasure should be expressed to those who had neglected their duty; which his Excellency desired the clerk to do." And, even this egregious sentence, as far as appeared from the papers, was never carried into effect. So that, for the same crime, one man was sentenced to death, and another to a ridiculous reprimand from the mouth of the Governor's clerk. A hundred and ninety-three gentlemen voted last session, that Mr. Smith, sentenced to death, and hurried to an untimely grave, was not punished too severely. Every one of them would vote with him to-night, in common consistency.

For, to them, of all men, must it appear most monstrous, that the same crime committed by magistrates, should be avenged by a sentence of displeasure. But there was another comparison infinitely more revolting to his mind, and which he could not think of without horror and poignant commiseration, and without sickening at the idea of West India justice. The rioters were white men, and not the hair of the head of one of them had been touched. Had men with black skins committed such, one-half, one hundredth part of such enormities—had they attended one lawless meeting—had they fired one house—had they sent forth one emissary—had they issued one proclamation of defiance—had they armed to resist the military—or had a negro whispered—he spoke not of an imaginary, but of an actual case, detailed in the papers lately laid before the house—had a negro whispered in the secret ear of his son, one sentence of dissatisfaction with his condition, or one natural sigh for liberty, what a massacre, what lashings, what gibbeting, would have followed!—how would the Mac Turks have rioted in the blood of the slaves!—how would the halberds have streamed with the blood of men sentenced, "for mercy's sake," as it was impudently called, to a thousand lashes—which were inflicted! But, being white men, and not blacks; civilized men, and not savages—"gentlemen," forsooth, "of respectability," which aggravated their guilt a thousand fold—their riot was patriotic—their proclamation was loyal: because they were "true lovers of religion," they pulled down a chapel, and persecuted their neighbour, out of love and harmony! The black insurgents had quivered under the halberds, and were rotting on the gibbets of Demerara: the white insurgents held the king's commission; administered the laws; were the senators and magistrates of Barbadoes! "Equal-handed justice" was the boast and glory of the British constitution. He then moved, "That an humble Address be presented to his Majesty, representing that this house, having taken into their most serious consideration the papers laid before them relating to the demolition of the Methodist chapel in Barbadoes, and the expulsion of Mr. Shrewsbury, a licensed teacher of religion, deem it their duty to declare, that they view with the utmost amazement and detestation that scandalous and daring violation of law; and to beseech his Majesty to take such steps as should secure the rebuilding of the chapel at the expense of the colony of Barbadoes; and also, to assure his Majesty, that the house will afford him every assistance which may be required, in order to prevent the recurrence of such outrages, and in order to secure ample protection, and religious toleration to all his Majesty's subjects in that part of his dominions."

Mr. Wilmot Horton said, that he should endeavour to confine himself to such a statement as would put the house in possession of the knowledge of the real condition of the island to which the motion of the hon. member referred, at the time when the facts in question had occurred, in order that the house might be enabled to form a correct judgment of the original causes which had led to so unfortunate a result. In the fulfilment of this duty, however, he should endeavour to offer such observations as might be calculated to conciliate angry feelings on either side, and to prevent the recurrence

of such evils for the future, rather than attempt to follow, step by step, the minute and substantially accurate statement of facts which the hon. member had just made. No gentleman could feel less inclined than he was, to justify so gross an outrage as the destruction of the Methodist chapel at Barbadoes. In fact, a reference to the papers which had already been laid before parliament would sufficiently prove the sense which had been entertained by the noble lord at the head of the Colonial department, of the nature of that outrage. At the same time, he felt how unfortunate it would be, if any thing occurred of a nature to rekindle feelings of animosity, and place at issue with each other the Missionaries of the Wesleyan Society and certain Proprietors in the West-Indies; between whom so much misunderstanding had already prevailed. In the main, he agreed with what had fallen from the hon. member; but, he most object to the introduction of the case of Mr. Smith, the Missionary of Demerara. The hon. member had endeavoured to establish an analogy between that case and the present one of the Magistrates of Barbadoes; but, he thought that it was very unsatisfactory in principle, if not more objectionable, to attempt to establish such analogy; and he thought that the hon. gent. had failed in doing so on the present occasion. It was to be remembered, that the subject of slavery generally, never could be approached, without adverting to the fact, that it was a state, however objectionable in itself, which had received, from time to time, in the most unequivocal manner, the sanction and support of this country. It was mixed up, in the minds of the West-India planters, with the question of property; and, if it could be shewn, that the irritation, distrust, and dislike, which had been entertained in the minds of the planters at Barbadoes against Mr. Shrewsbury and the Wesleyan Missionaries, arose from an apprehension which they entertained for the security of their property, as involved in the possession of slaves, some apology would be furnished by that consideration. If they considered that the doctrines held by these Missionaries were dangerous to their interests, as being subversive of subordination among the slaves, inasmuch as they inculcated the doctrine that slavery was incompatible with Christianity, that again would make the present case one which ought to be considered on its own peculiar grounds, and not in analogy with that of Mr. Smith, the Missionary of Demerara. Now, whether Mr. Shrewsbury or the Missionaries ever inculcated these doctrines, or, if they did, whether they acted under a sense of duty in doing so, was a question upon which he would not pause to make any observations. He would only say, that the state of slavery being a recognized state, and certain rights of property being mixed up with that state, it would have been wise on the part of the Missionaries, with reference to late discussions which had taken place in parliament on the subject of that state, to have conciliated the planters, by endeavouring to remove from their minds any doubts or apprehensions, that they meant, in any degree, to weaken the spirit of obedience in the slave. With respect to Mr. Shrewsbury himself, he did not mean, for one moment, to question the respectability of that individual. The testimonials to which the hon. member had

referred came from persons of high character, and were, on that account, entitled to every consideration. At the same time, it was beyond a doubt, that that Missionary, perhaps unintentionally, had given offence to the great bulk of the white population of Barbadoes, who considered themselves likely to be prejudiced by his conduct. For, only one month after he arrived in the island, he had written home a letter to the Wesleyan Missionary Society, containing some severe strictures on the state of religious instruction, as then existing there. Those strictures containing, or being supposed to contain, harsh reflections on the white inhabitants in general, excited against Mr. Shrewsbury strong feelings of disapprobation in Barbadoes. Mr. Shrewsbury had written to the Committee of the Wesleyan Missionary Society, on the 28th of March, 1820, in the following words: "If we now pause, and take a calm review of the moral condition of this populous colony, the sight will be painful and affecting in the extreme. Surely, the fear of God is hardly to be seen in this place." And, although, in a subsequent part of that letter, he directed his observations towards the free black and the slave population, still, a general censure on the whole was considered to have been made. And here he wished it to be understood distinctly, that he had no complaint to make against the Wesleyan Missionaries in the West Indies. On the contrary, speaking generally, from all that he had heard, he was disposed to speak favourably of their conduct and of their usefulness. But he might, he hoped, without giving any offence, recommend the greatest caution to those persons, in the existing state of feeling in the colonies.—It appeared, too, that Mr. Shrewsbury, instead of disarming the prejudices which prevailed, had taken steps, which were rather calculated to aggravate them. With the view, as he said, of explaining the real state of the case to the public, he had himself laid a copy of the letter in question upon the table of the public Commercial Room—a step, which many persons in the colony considered as not done in the spirit of self-justification, but in that of defiance, and with a view to shew how little he valued his opponents;—especially as he did this at the time when the alarms of the people of Barbadoes were excited, not only by the discussions that had taken place both in and out of parliament, but by the intelligence lately received of the formidable insurrection in Demerara.—to the supposed origin and causes of which, he should not now advert. Whatever might have been Mr. Shrewsbury's motive in this respect, it was sufficient to say, that his conduct had given rise to feelings, which led to the circumstances which the house was now called on to discuss. With regard to the chapel which had been destroyed, he could inform the house, that at the period of Mr. Shrewsbury's arrival in Barbadoes, in Feb. 1820, so far from its appearing, that there was any general indisposition towards himself or his Mission, on the contrary, every sort of assistance was given him:—and, in proof of this assertion, he could state, that one-third of the expense of building this chapel which had lately been destroyed, was raised by voluntary subscriptions. Nothing could more clearly establish the fact, that this irritation, on the part of the people of Barbadoes, did not arise from original ill-

will towards the Wesleyan Missionaries, but from particular circumstances, which had characterized the mission of this individual. To the argument of the honourable member opposite, who had observed on the continuance of these feelings in Barbadoes, he must however, observe—and he did so with considerable regret—that circumstances had occurred, which tended to keep alive the suspicion and jealousy, which existed in the minds of the white inhabitants of Barbadoes, and to which he had alluded; namely, a jealousy of the supposed tendency of the Wesleyan doctrines to diminish the obedience of the slave. It appeared, that in last September, certain Resolutions were passed at a meeting of Wesleyan Missionaries in Kingston, Jamaica, the first of which was expressed in these words: "That they entertain a decided belief, that Christianity does not interfere with the civil condition of slaves, as slavery is established and regulated by the laws of the British West Indies." The Committee of the Wesleyan Missionary Society at home thought it necessary, explicitly and distinctly to protest against the doctrine contained in that Resolution; and they declared, that they held it to be "the duty of every Christian government, to bring the state of slavery to an end, as soon as it could be done, prudently, safely, and with a just consideration of the interests of all parties concerned;"—and, thus far, they went little beyond the Resolutions of the House of Commons. They then added, that "the degradation of men merely on account of their colour, and the holding of human beings in interminable bondage, were wholly inconsistent with Christianity." Now, of whatever qualification this opinion might be susceptible, to preach to the slave, that Christianity was his first duty, and to tell him, at the same time, that his state of slavery was wholly inconsistent with Christianity, was to inculcate doctrines, which would naturally appear dangerous to those who felt, that their property, the property of their families, and their very existence, were necessarily involved in the possession of slaves. The hon. member had expressed little or no censure on the conduct of the Governor of Barbadoes. He (Mr. Horton) felt assured that the house would consider that the Governor had done every thing in his power. In referring Mr. Shrewsbury to the magistrates for protection, he had felt, that he was only giving that importance to the execution of the law which it was his duty to give. If Mr. Shrewsbury had applied to the magistrates, and they had refused to act, he might then have immediately returned to the Governor, who would have found himself placed under circumstances, in which he could have had no hesitation in interfering personally. But, the impression which existed in Mr. Shrewsbury's mind, that he would not receive assistance from the magistrates, was pleaded as an excuse for not having made the application. In that exercise of his discretion, he considered Mr. Shrewsbury to have been entirely in the wrong; and that he was so far responsible for the circumstances which had succeeded. He would mention another cause of the continued irritation which had existed in Barbadoes. In the Report of the Committee of the Wesleyan Missionary Society to December 1824, page 105, were the following remarks, with reference to the destruction of the chapel: "The whole shews, that even the poor excuse

of temporary excitement, founded on exaggerated reports as to the insurrection in Demerara, and misapprehensions as to the contents of Mr. Shrewsbury's letter, cannot be allowed to the leaders and excitors of these disgraceful outrages. They argue a deeper and more permanent principle—a settled hostility to religion itself, and to the religious instruction of the negro and coloured population." Now, he thought that he could satisfy the house, that it was not a settled hostility to religion itself, that existed in Barbadoes,—but a hostility to religion, as they understood it to be preached, or expected that it would be preached by the Wesleyan Missionaries. The religious establishment which parliament had provided had been received with the utmost cordiality and gratitude. He understood that the legislature were prepared to grant 3,000*l.* towards the expense of building a new church at Bridgetown, and to make an annual grant of 600*l.* for the support of the Colonial School. The Moravians had lately received from one individual a donation of 2,000*l.* But, he would refer more particularly to the authority of the Rev. Mr. Hinds, a gentleman of the utmost respectability, the Principal of Codrington College, a college under the direction of the Society for the Propagation of the Gospel; and it was to be remembered, that the statement of that gentleman was upon oath. Mr. Hinds stated, that when officiating as Missionary from the Society for the Conversion of Negro Slaves, he made many applications to the proprietors and overseers of estates, for liberty to instruct their slaves in religion; that, without any exception, all his applications were favourably received; and that, in several instances, great zeal and earnestness were manifested in the cause in which he was engaged. He had known the proprietor of an estate himself read prayers and explain the Scriptures to his slaves; and he adds, "from the inquiries which I made, as well as from my own observations, the impression left upon my mind is, that the general sense of the proprietors is in favour of the religious instruction of the negroes, whenever undertaken by ministers of the Established Church." Many additional passages might be quoted, in corroboration of this opinion, and to shew the extent of religious instruction which the slaves received, not only at the several parish churches, which were open at extraordinary hours, for the special purpose of giving to the slaves lectures adapted to their capacity, but also at their own houses; and an estimate had been made that 10,000 slaves were receiving religious instruction weekly.—He should conclude his observations by repeating, that he had nothing to offer in the way of apology for what had occurred in the destruction of the chapel, which had given rise to the hon. gent.'s motion. He was willing, however, not only to hope, but to believe, that the actors in that disgraceful outrage, although they might have been under the influence of a sort of moral demerement, were not actuated by any want of intrinsic respect for religion itself. He hoped, that the proof which these circumstances exhibited of the existence of an angry and dangerous spirit, would have the effect of inculcating caution on all classes of religious Missionary Societies, and of inducing them to endeavour to disarm that spirit, by adopting measures of conciliation, and thereby to give full effect to those general measures

of instruction and improvement which the house and the country had sanctioned.

Mr. *W. Smith* had no hesitation in saying, that there was not a shadow of a charge against Mr. Shrewsbury. The obnoxious letter, of which so much had been said, contained no reflections on the white population of the colony, half so strong, as those which were to be found in almost every publication, which had come, even recently, from gentlemen, who were the best acquainted with the condition of the West Indies. From the days of Bryan Edwards, down to the present year, similar descriptions had been uniformly given, by every writer who had resided there. He could, if necessary, furnish instances, abundant and indisputable; but, the facts were too notorious to be denied; and, whether true or false, these representations were not confined to Mr. Shrewsbury, and could not therefore furnish ground of charge against him in particular: nor, however disreputable such conduct might appear in the eyes of the sober part of the British public, were the charges of a nature to excite the negroes to insubordination; but, they were amply sufficient to stimulate the colonists to give vent to their dislike of the Missionary system, and to the sullen feelings which they had long indulged against Mr. Shrewsbury and his brethren; men, however, whose character neither depended on their report, nor was to be accepted from such prejudiced hands. The hon. Secretary had recommended conciliation and forbearance. Now, conciliation had been very long tried; and, he was sorry to say, had not produced the beneficial effects which had been promised. When Lord Seaforth had proposed a bill, to declare the wanton and wilful killing of a slave to be murder, the planters pertinaciously opposed the enactment; not on the pretext, that the mere supposition of such a law being necessary was an insult; for its necessity had been demonstrated by a recent occurrence—but merely because they were, forsooth, too high-minded to submit to a law which they disapproved: and the manner, too, in which it had been refused was most offensive. Nor had he been able to trace, from that day to this, any change of feeling in the people of that island, which could lead him to suppose, that such an outrage as was now complained of, might not, at any time, have been committed: the extravagance of the action did not, in his mind, form any presumption against its probability. Stronger measures than any which the house had yet taken, were, he was convinced, necessary to repress this spirit; and, if some such steps should not be taken on the first occasion which should present itself, whether a bishop or a missionary were employed in the obnoxious work, the most reasonable demands would be rejected, if they happened not to suit the pride of the Assembly, or the caprice of the people. There had always existed, on the part of the inhabitants of that island, the most inordinate and ridiculous ideas of their own importance. They seemed, in this instance, to be nearly on the same level with the poor simple Welchman, who exclaimed, when he was about to leave the city of Bristol, "Alas! what will become of thee, poor Bristol, when I am gone!" They should be taught, that, however valuable to a few individuals might be the estates they possessed there, to the empire of Great Britain, as a national possession, their island was but as a toy, which, if destroyed, would, in a very short

time, be scarcely missed, and ere long be quite forgotten: and that, instead of being one of the props of this country, as had been silly boasted, her conduct tended only to embarrass and to tease the too-forbearing Government of the mother country, and to bring the colonies into contempt.

Mr. *Buttsworth*: The hon. Secretary had stated, that all these subjects relative to missions in the colonies, should be treated in a spirit of conciliation, and not with hostility. He could assure the hon. gent. that a spirit of conciliation had uniformly been manifested by Mr. Shrewsbury and the rest of the missionaries, as well as by those who had the management of the Wesleyan missions. Nothing could more directly prove this, than the conduct of Mr. Shrewsbury, when, after the destruction of his house and property, for no offence—when he had been forced to escape for his life out of the island of Barbadoes, with his wife, at the very moment she expected to be confined, he sat down as soon as he landed in St. Vincent's, and wrote that most judicious and conciliatory pastoral letter to his distressed flock in Barbadoes, which had been alluded to by the hon. member. In this letter he entreated them not to resent the unprovoked injury which they had sustained, but to bear with meekness and patience every insult, and not to render evil for evil. Nothing could be more conciliatory, nor better evince the christian spirit of forbearance, than that admirable letter. With regard to the conduct of the Wesleyan Mission committee, although they had deeply felt the gross injury and violent outrage which had been committed, yet they had excited no spirit of resentment at home. The table of the house might easily have been covered with petitions from all parts of the kingdom for justice in so flagrant a case; but, not one had been presented, and, indeed, the present motion was not made by the instigation of the mission committee: it was the spontaneous act of the hon. mover. So far from the Society wishing to excite a spirit of resentment, they only lamented, that the gentlemen of Barbadoes did not see their own true interest, and encourage the missions, as had been done in the other West India colonies. For, certain he was, that the slaves became more industrious, more sober, more honest, and, in every respect, more valuable, when brought under the influence of moral and religious principles. He did not give this as his own opinion merely; for he had abundant evidence to prove it. In the year 1817, when prejudices were excited against the missionaries, he, together with the late member for Midhurst, Mr. Thompson of Hull, sent a circular letter to the West India colonies, addressed to gentlemen not belonging to the Methodist society, inquiring into the character and conduct of the Wesleyan missionaries, and of the effects produced by their preaching and labours on the slaves; and he had now in his possession abundance of letters, from governors, members of council, judges, barristers at law, physicians, planters and proprietors of estates, merchants and others, bearing ample testimony to the beneficial effects of the Wesleyan missions on the minds of the slaves, and of the general good character and conduct of the missionaries. He was sorry that Barbadoes was almost the only colony in which the missions were not encouraged. Liberal subscriptions had been contributed to the missions by proprietors of slaves, in most of the

other islands. He regretted that the hon. Secretary had made any animadversion on the annual report of the Wesleyan Missionary Society. It was surely necessary, that such a flagrant outrage as the one committed at Barbadoes should be noticed in the annual report; and it certainly had been done in temperate, measured language; considering the unprovoked injury which had been sustained. The hon. Secretary had also said, that the doctrines preached by the missionaries tended, in the opinion of certain persons at Barbadoes, to inculcate insubordination among the slaves, and to lessen their value. He (Mr. B.) would challenge any one to prove the fact. These missions were not of yesterday; they had been established upwards of 40 years; and, during all that time, there never had been a single charge substantiated against the doctrines taught by the Wesleyan missionaries. Indeed, their doctrines and liturgy were those of the Established Church of England. With regard to the instruction afforded by the clergy of the Established Church in the colonies, it was generally admitted, by their own returns to Lord Bathurst's circular letter, printed by the house in 1816, that the clergy did not consider themselves fitted, or responsible, for the instruction of the slaves; nor had they the means of affording instruction. If he recollected right, in the return made by Mr. Chaderton, rector of St. Paul's, Antigua, he had stated, that he could only admit about 80 slaves into his church after the whites were accommodated; and there were nearly 4,000 slaves in his parish. The hon. Secretary had charged Mr. Shrewsbury with exciting the violence which had occurred at Barbadoes, by exhibiting his letter by way of defiance. The very reverse was the fact. The letter had been printed in the colony for three years, without exciting any particular observation; but, when the unhappy affair in Demerara occurred, it produced a bitter spirit against all Missionaries, and then the Barbadians endeavoured to find some charge against Mr. Shrewsbury. They examined his reports, as printed in the Missionary Notices, and particularly his letter of 1820, which was a public document in the island, and they grossly misrepresented it. Mr. Shrewsbury, merely in self-defence, to prevent such further misrepresentation, and from the best motives, to promote peace and good-will, took the printed copy of his letter and left it at the Commercial Rooms, that it might speak for itself. With regard, therefore, to Mr. Shrewsbury's motive, it was merely to silence clamour, and certainly not to provoke hostility. He had received the most ample testimonials to Mr. Shrewsbury's general good conduct, especially from one highly respectable gentleman in Granada, who owned, or had the charge of about 2,500 slaves, with whom Mr. Shrewsbury lived some years, and was particularly useful in improving the general character of his negroes. As there did not appear to be any particular objection to the motion, he should refrain from offering to the house some further observations, which he should otherwise have made, respecting the general object and tendency of the Missions.

Mr. Canning said that of the transaction to which the papers on the table of the house related, it was impossible that there should be more than one opinion: namely, that it was unjustifiable, indefensible—a violation of law and justice—a defiance of all legal authority

—a flying in the face of Parliament, and of the country (hear, hear.) In every expression of abhorrence at so great an outrage, he fully concurred with the hon. member (Mr. Buxton;) and, if he differed from that hon. gent. in opinion, as to the mode in which the house ought to proceed upon the occasion, that difference was solely founded on practical considerations, arising out of the circumstances of the case, and not upon a favourable estimate of the character of the transaction itself. He admitted even, that it was a case, in which the duty of the House of Commons would be better performed by interfering, than by passing it by unobserved; but, he thought it at the same time, expedient for the house, so to regulate its interference, as neither to leave unmarked, on the one hand, the expression of its indignation, nor to involve itself, on the other hand, in questions of unnecessary difficulty. The case of Mr. Shrewsbury had been placed in comparison with that of Mr. Smith, the Missionary of Demerara; but very erroneously, as appeared to him; since there was a striking difference in the two cases. Of Mr. Smith he was desirous of saying nothing harsh or disrespectful. His guilt or innocence was not the debate of that night;—and, whatever his errors might have been, he had, God knew, more than amply atoned for them. But, in Mr. Smith's case there was an imputation of guilt, or error, call it by what name they would—which at least provoked, if it did not justify, animadversion. In the conduct of Mr. Shrewsbury, he must be allowed to say, that there did not appear the slightest ground of blame or suspicion (hear, hear.) Allusion had been made to the letter which Mr. Shrewsbury had felt it his duty to address to his correspondents in this country. It could not be denied, that Mr. Shrewsbury was at liberty to write that letter. To Mr. Shrewsbury, therefore, no blame whatever attached, on account of its contents. But, he must say, that it was a gross instance of imprudence to publish that letter; nor could he conceive any thing more likely to paralyze the future efforts of their Missionary, than that publication by the Missionary Society. The sending back to Barbadoes, to be circulated throughout the colony, Mr. Shrewsbury's free remarks upon its inhabitants, was to mark him out for distrust and dislike, if not, as had turned out to be the event, for persecution. The object of the Missionary Society ought to have been, to enable Mr. Shrewsbury to stem the prejudices which prevailed against his sect. Before he had time, however, to conciliate, by his peaceable and steady behaviour, those to whom he was sent, this firebrand had been flung amongst the Barbadians; and, from that moment, all the prospects of his individual usefulness in that community, were at an end. But, of this unlucky mistake the blame rested not on Mr. Shrewsbury. Nor did he state the provocation—though a most unwise and unnecessary one—as a justification of the conduct of the Barbadians. In considering the course which it was the duty of the house to adopt upon the present occasion, it was necessary for hon. gents. to bear in mind, that there were four classes of persons to whom the attention of the house had been drawn. In the first place, there was that class of unknown persons in Barbadoes, who had personally committed the outrage which formed the subject of the motion; secondly, the insular Magistracy, who,

it was impossible to say, had done their duty, or had even shown themselves sensible of the duty which they had to do: thirdly, there was the Governor of the Colony: and, lastly, there was the Government at home. With respect to the conduct of the Governor he was disposed to view it with great indulgence. Indeed, there was no disposition, in any quarter, to impute blame to him. Undoubtedly, it was in his power to have called out the military under his command; but, that was an extreme course, which, the rather, perhaps, from his being a military man he was unwilling to take, when informed by his official legal adviser, that such a course was not within the limits of his authority. The Governor did not appear to have been then aware of the extent of that authority: but, having been since instructed, by the Sec. for the Colonies, that his authority, as Governor, was much wider than he supposed it to be, he had shewn every disposition to exercise it to its utmost extent: which, indeed, he had so effectually done, as to prevent the repetition of similar outrages in the colony. With respect to the conduct of the Government at home, he thought it was impossible—indeed, no disposition was evinced—to charge it with remissness. Lord Bathurst had done every thing in his power, to avoid a recurrence of the disgraceful scenes that had taken place, by calling upon the Governor to exercise an extended authority; pronouncing animadversions on the magistracy; and requiring a more accurate investigation into the manner in which that body discharged its functions. It had been asked, why the Magistrates had in no way been punished, except by a slight reprimand from the Governor; and how it came to pass, that their dismissal had not been recommended? Looking on the face of the papers, it certainly did appear to him, that many of those magistrates ought to be removed from their offices. But, unacquainted, as he necessarily was, with the state of society in Barbadoes, he was not prepared to say, that, if the present magistrates were displaced, others could be procured, who would discharge the duties of their office in a more satisfactory manner. This could be no very satisfactory reason, to be sure, for continuing things on their present footing; but, it was an imperative one, if it existed: and, not knowing whether it existed, or not, the Colonial Sec. of State could not, without great indiscretion, and risk of mischief, have sent an order to displace a whole magistracy—even if the Government had the lawful power to do so. The fourth class were the rioters themselves;—guilty, but numerous, and unknown. In defence, or in extenuation at least, of the riot, blame had been thrown upon the Wesleyan Missionaries in general. He was not all inclined to disparage the character of that body, or to undervalue their labours. But, with every due sense of their merits, and of the good which they had effected in the colonies—good, not only spiritual, but political—he was not disposed to confine the education and moral improvement of the inhabitants of the West-Indies, to their exclusive protection. He was a friend to toleration, in the full extent and meaning of the term; but, he did not understand that kind of toleration, which was to be confined to one particular class or body, to the exclusion of other bodies, equally meritorious. He wished the Established Church to live in charity with all sects; and to avail itself of all the aids and appliances which they might fur-

nish. But, he did not see why the Church of England should be considered as the only establishment unfit for its own work; and incompetent to deal with the subjects and colours of England. He said this in passing; because, he thought he observed a disposition to raise the Sectaries, not up to a level with the Church, but beyond it; and to make the Church itself an exception, rather than the rule and standard of our Ecclesiastical Establishment. But, to return to the immediate question. A reference had been made to certain expressions which had fallen from him, in a former session, during the discussion of certain propositions, calculated to promote the amelioration of the condition of the negroes of the West Indies. Undoubtedly, he had said, that if, in the prosecution of that cause, he experienced resistance from the West Indies, partaking of the nature of contumacy, he should consider it right to come down to parliament for counsel and assistance. To that opinion he still adhered: and it was plain, that he so far admitted its application to the present case, as to allow that it was one in which something should be done by the House of Commons. The question was, what that something should be. The proposed Address to the Crown pledged the house to assist His Majesty, in enforcing the rebuilding of the chapel which had been demolished, at the expense of the people of Barbadoes. Such a proposition appeared to him to involve a most dangerous principle. It was one which had very rarely been acted upon in this country. There were, he believed, in the annals of Parliament, two prominent instances of penal infiction upon a large community, for the acts of undiscovered individuals. Those instances were that of the Porteous riot, at Edinburgh, and, more recently, the Boston Port bill. The former had not been without its difficulties. The latter was a most inauspicious precedent; and one which he was sure the house would not be very precipitate to adopt. If, however, the house were prepared to admit such a principle, they should also be prepared, with all their hearts, and with every nerve of their frames, to follow it up, and fearlessly meet the result. The Executive Government alone could do nothing to accomplish the hon. gent's object. The Address would, therefore, be a delusion, if it did not point distinctly to an act of the Legislature. It was by an act of parliament alone, that the people of Barbadoes could be compelled to do that which the hon. member recommended. But, was the house prepared to levy money, for internal purposes, on the people of that island, who had an independent legislature of their own? He begged to be understood, as not giving any general opinion, as to the existence or non-existence of that transcendent power in the metropolitan parliament of the Monarchy. That was one of the questions which lay deepest in the penetralia of the constitution, and which, as he had said upon the occasion before referred to, it would be unwise to stir, except upon an adequate occasion. Was this an adequate occasion? He thought not.—Was he (Mr. Canning), however, desirous to induce the house to pass over the outrage which had been committed? No such thing. Although he did not think the case was one which called for such an exercise of authority as the Resolution of the hon. member indicated, he nevertheless thought it was one, on which it was fitting that the House of Commons should express its opinion—not in censure of



the Governor of Barbadoes—nor of the Home Government—but, in aid of both, and for the purpose of proving to the colonies, that the opinion of the house and the country was, that the Governor had done his duty, and that they were ready to give him their support, if necessary, in what future exigencies might require to be done. He had prepared an amendment to that effect, which he would read to the house:—

“Resolved, That an humble Address be presented to His Majesty, to represent to His Majesty, that this house, having taken into their most serious consideration the papers laid before them, relating to the demolition of the Methodist chapel in Barbadoes, deem it their duty to declare, that they view with the utmost indignation that scandalous and daring violation of the law, and having seen with great satisfaction the instructions which have been sent out by His Majesty's Sec. of State to the Governor of Barbadoes, to prevent a recurrence of similar outrages, they humbly assure His Majesty of their readiness to concur in every measure which His Majesty may deem necessary for securing ample protection and religious toleration to all His Majesty's subjects in that part of His Majesty's dominions” (cheers). The hon. mover would see, that the principal difference between the Amendment and the original Resolution—except in what related to the rebuilding of the chapel—was, the substitution of the word “indignation” for “amazement and detestation” (a laugh). He believed the substituted phrase was the more parliamentary. At all events, it was, on the present occasion, the more correct: for it did appear somewhat extraordinary, that the hon. member should propose to declare the “amazement” of the house at an event, which he had stated, both at the outset and the conclusion of his speech, to have been exactly agreeable to his own expectation (a laugh). As an admonition to the inhabitants of Barbadoes, and as an expression of the opinion of the house, he (Mr. Canning) thought the amended Address would be equal in effect to any questionable attempt at more serious practical punishment. Let not the principle of such more weighty infliction be supposed to be disavowed: but, contented to meet the present occasion with what was sufficient for the purpose, let that principle be permitted to lie dormant in the omnipotent bosom of parliament; never to be brought forth into action, until the Legislature saw itself called upon, by a more urgent exigency, to arm itself with extraordinary terrors; and was consequently prepared, with all efforts and at all risks, to push that principle to its utmost extremity. The Amendment further inquired, as he (Mr. Canning) thought, upon the original Resolution, by expressly approving of the conduct of the Executive Government at home. The effect of passing any resolution which did not contain such an expression of approval, would be to impeach that conduct; and, sure he was, that it was not the intention of the hon. mover to do that, which would be, in effect, to side with the contumacious Barbadians, against the Sec. of State. On the contrary, the hon. gent. would feel, that a cordial approbation of what the King's Government had done, would be the most useful encouragement and support to them, in what they might yet have to do. He should, therefore, conclude by moving that the amendment be adopted.

Mr. Brougham was happy to say, that he

highly approved of the amendment; which, unlike many other propositions bearing that name, and proceeding from the other side of the house, was, in truth as well as in name, an amendment of the original motion. But, he would now, as he did upon all other occasions, enter his protest against any parallel being set up, between the case of the Northern States of America and the West India islands. He denied that there existed the remotest similarity in their relations with the mother country. The defiance of North America was truly formidable, and to encounter it was, on the part of this country, the height of folly: the threats of the islands were justly a subject of ridicule. It was not, however, because they were powerless, that he would argue that any illegal or unjust course was to be adopted towards them. Far from it. He had ever contended, that even the weakness of a community constituted a stronger claim against being trampled upon by oppressive interference. It was because he held the right to be on our side, that he warned the islands once more against provoking us to show our power also; and reminded the house that, as for the safety of exercising our undoubted prerogative, Great Britain had nothing to fear from the West Indies—from its largest colony, down to the smallest of the Virgin Isles. They might menace—but, it was all trifling. The language of this country should be to the West India Assemblies—that, if they did not discharge their duties, the United Parliament would do its duty—that it would exercise that legislative right, which, except upon the point of taxation, it had reserved to itself, and secured by a declaratory law. No man who knew the least of the question could harbour a doubt on this point. No man who had read the words of our statutes, or reflected on the events out of which they arose, could hesitate an instant in admitting, that parliament possessed the full right of internal legislation in all the colonies—frequently exercised that right—and had only consented to abandon it upon the single matter of revenue. There was, he thought, a very remarkable difference between the tone of the rt. hon. Sec. of State and the Under Sec. for the colonial department, in speaking of the outrages which had been committed in Barbadoes. On this subject, the hon. Under Sec. was rather mealy-mouthed. He dealt out his censure very charily, upon the conduct of those by whom the disgraceful outrage in question had been committed. According to the hon. gent., they had been betrayed by their feelings into the course which they had pursued. In an amiable excess of sensibility, they had only burnt down a chapel—only made a great riot—only levied war against the king, and committed high treason (a laugh)! This aimable indiscretion, it seemed, was occasioned by a wish to preserve their property, on the part of those who committed it. Just as if a man, professing merely to protect his own purse, should indiscreetly, but through a pardonable, if not an amiable indiscretion, take his (Mr. Brougham's). To protect their own property, these amiable but indiscreet persons went and destroyed a meeting-house belonging to others. And then, these offences, committed day after day, and night after night, were absolutely gloried in by their perpetrators, and called the triumph of true religion! Excesses had often been perpetrated in the name of religion, as well as

of liberty; but, never before, even in the most barbarous times, had that sacred name been more prostituted, than in Barbadoes. With respect to the Missionaries, he must declare, that they had done great good—unmixed good—in the West India colonies. The Church must, of course, be protected; but, he would deal with an equal hand, and afford protection to the sects likewise. The Church was not adapted to the spiritual exigencies of the colonies. It was quite impossible that the task of instructing the slaves could be left to the Established Church alone. The very accomplishments of its clergymen, the education which they received at Oxford and at Cambridge, unfitted them for the task of converting and educating the unfortunate beings, who ought to be the peculiar objects of proselytism and instruction. In a very able pamphlet on the Treatment of the Negroes, published by Sir George Rose, the author, a member of the Church of England, and warmly attached to its doctrines and discipline, notwithstanding all his prejudices in favour of the establishment, had laid down the principle to which he (Mr. B.) had just adverted, had supported it by argument, and illustrated it by example. Nay, even the clergy of the West Indies themselves, had, many years ago, borne the most satisfactory testimony to the superior advantages possessed by the Methodist ministers, in teaching the negroes; and had admitted, that if those negroes were to be taught at all, it must be by such instructors. The question, indeed, now was, whether the negroes should be taught at all: for, if they were to be taught, Methodists alone could teach them. He was exceedingly sorry, however, to find, that such was not the opinion of a *rt. rev.* person who had lately been sent over to the West Indies, as Bishop of Jamaica. Bishop Lipscombe, in his despatch to the noble earl at the head of the colonial department, asserted, that the negroes were very favourable to the Established Church, and, on the contrary, regarded the sectaries with a most unfavourable eye. It was worth observing, that this despatch from the *rt. rev.* prelate was dated the 12th of March. He could not have arrived in the colony long before the beginning of March, notwithstanding which, the moment he got there, he saw what was the religious disposition of the slaves. Let the house remark, how very much the *rt. rev.* prelate differed from his more humble ecclesiastical predecessors. He said, "A very strong predilection exists among the slaves for the doctrines of the Church of England, if opportunities for attending Divine Service were afforded them." Here it would be seen, that the *rt. rev.* prelate had arrived at a perfect knowledge of the predilection of the poor negroes for the Established Church, including the 39 articles, and its practical as well as religious relations, in the course of the first fortnight after his arrival (a laugh). Lord help him, to think that the *rt. rev.* personage was speaking of the negro slaves of the West Indies. They knew nothing, poor things, of the difference between consubstantiation and transubstantiation, or that "verily indeed," meant "indeed and verily" (a laugh). The bishop proceeded thus—"Wherever I go I find that the greatest aversion exists against sectarians of every denomination, and they have every degree of confidence in any teacher of religion whom I may be pleased to

appoint" (laughter). He had no doubt, from what the bishop afterwards said, that he happened to have a deep sonorous voice (a laugh). "The psalmody and the organ have great attractions for them. They are peculiarly fond of form and ceremony, and are greater critics than many persons give them credit for" (a laugh). (Mr. Canning asked whether it was the negroes who were spoken of in that passage?) Oh, yes; it was the negroes. The bishop had fathomed their character as quickly as the negroes had fathomed the merits of the Establishment, and discovered the means which was concealed in its bosom. He had examined them with the eye of a lynx, and got at the depths of their character. The report proceeded—"On account of the capriciousness of the negro character, it is difficult to ensure their attendance, even where great pains have been taken; but, whenever a preacher is popular, they dress out their children and themselves—a sure sign they are in good humour." This was the first time he had ever been aware of that trait in the negro character. He knew, indeed, that with respect to bishops, the better humour they were in, the more magnificently they dressed themselves out in lawn, and satin, and powder; but he never knew that negroes were in the habit of expressing their satisfaction in a similar way (a laugh). He was surprised that in the same sentence in which the bishop said the negroes were fond of ceremony and form, he should call them capricious; because the more they were fond of ceremony and form, the more episcopalian were they in the cut of their opinions (a laugh). Now came the passage, which when he wrote, the bishop must have been thinking of his own voice—"They are greater critics than many persons will give them credit for being, and they have a great predilection for a powerful and sonorous voice" (great laughter). The *rt. rev.* prelate then proceeded to say—"As soon as my archdeacon and myself have visited the several parishes, which we purpose doing immediately"—by which it appeared that the bishop made this report, before he had seen the people. The learned divine reversed the usual course of proceeding—which was to see first and report afterwards; for he made up his report in the first instance, and then said, that he would go and see what he had been writing about! The bishop went on thus—"I shall not fail to communicate to your lordship whatever I may deem useful and practical. In the mean time, I am happy in being able to assure your lordship, that a very general wish to ameliorate the condition of the slaves, and to instruct them in the principles of the Established Church, seems to pervade the great mass of proprietors, and every facility is afforded me of visiting the several plantations." Now, whatever the bishop of Jamaica and his archdeacon might think, he really could not help believing, that the bishop and the archdeacon knew very little about the best way of teaching or educating the negroes. The fact was—and it was known to all who knew any thing of the West India islands—that the missionaries were the only real and efficient teachers of the black population; and hence the peculiar atrocity of that gross and scandalous outrage to the law, to the interests of religion, to sound policy and the best interests of the planters themselves, which had been perpetrated, in so daring a manner, in the island of Barbadoes;

and which was the subject of the present discussion. It had been said, that Mr. Shrewsbury should not have written the letter which had been alluded to. He could not, however, for a moment believe, that the letter was the cause of the ill-treatment which that excellent man had received. Confident he was, that the outrage was not directed against Mr. Shrewsbury as a libeller, but as a missionary. It was now about a year since the house was occupied in discussing another outrage similar to the present, as to the motives in which it originated; and he then solemnly adjured the house to redeem its pledge, if the planters persevered in forfeiting theirs; warning the planters, moreover, that the house would one day do its duty, if they obstinately persisted in breaking all faith, and putting off for ever the day of amendment. Month after month had rolled away—and, what had they done? Nothing—or, rather, he could not say nothing—but that which far more significantly than mere inaction indicated their determination to violate every vow, and go on deceiving and mocking the house, as long as they would submit to be mocked and deceived. In Trinidad, they had offered every impediment short of open resistance to the enforcement of the order in council. In no one of the islands had they carried the great measure of admitting negro testimony: and, in one only, had they attempted it. Yet, mark the instructive history of that attempt. A bill was brought in, providing for the competency of negro evidence, within very limited bounds, it was true—but still an important amendment of the law. The Duke of Manchester reported on this step; and congratulated the government at home on the prospect of its being carried, as it had been brought in without a division, and by the most respectable and leading member of the Assembly. But, soon after the date of his Grace's despatch, came the first reading; and then, the division being taken, there appeared, out of thirty-five present, exactly thirty-four against the bill, and one single voice in its favour! Whoever, after this, should expect much from Colonial Assemblies, would have himself only, and not them, to upbraid, for whatever disappointment he might experience.—But, if they abandoned their duty—if they would not redeem their pledges—at least he (Mr. B.) would redeem his; and unless, before the next session of parliament, he should see them acting in good earnest, to show that they were at length resolved to make amends for the time thus squandered away, he desired to be understood as now giving notice of his determination to present a bill to the house, for the purpose of bettering the condition of their fellow subjects, the negroes, in all the British colonies. That measure would embrace the following distinct objects:—First; to make negro evidence admissible in all cases, in all courts, leaving of course its credit to the consideration of the court and jury: Secondly; to prevent the use of the whip, as applied to women, entirely; and as a stimulus to labour, whether for men or women: Thirdly; to attach all slaves to the soil, rendering them inseparable from it, in any circumstances: Fourthly; to prohibit persons holding West India property, or any mortgage upon such property, filling any office, civil or military (except regimental) in the West Indies: and, lastly; to secure, by such

means as might be safe at once to the owner and the slave, the gradual, but, ultimately, the complete admission of that injured class of men, to the blessings of personal liberty (hear). If he (Mr. B.) were alive and in parliament, he would, early next session, move for leave to bring in such a bill. He knew that he should have the zealous support of almost all who sat around him. He trusted he should have the concurrence of a majority of the house. He was sure he should have with him the great body of the people out of doors. Nor, should he be wanting, would this measure be abandoned. It was the result of mature deliberation: it was the fruit of extensive concert: it was now pressed forward after long delay, and great forbearance: and, as it signified little to whose hands the proposal was entrusted, so by some one or other, would it surely be brought forward, even if he were no longer present to discharge that duty; and, unless the West Indians should of themselves prevent it, let them be well assured, that it would, sooner or later, but probably at no distant day, be carried (hear, hear).

Mr. Bernal said, that after the great temper and moderation which had been shewn in the early part of the discussion, he thought it hard, that the learned member (Mr. Brougham), should have diverged into so wide and sweeping a field of invective. Those members, who were connected with the colonies, had not had any previous notice given to them, that they would thus be put upon their trial. Could any one have expected, after hearing the terms of the original motion, and the judicious and discriminating amendment of the rt. hon. Sec. for Foreign Affairs, that those proprietors would have been exposed to the unsparring abuse of the learned gent.? He could state from unquestionable authority, that the learned gent. was not warranted in the attack which he had thought proper to make on the House of Assembly in Jamaica. He denied, that the bill which that Assembly had passed, to prevent the arrest of slaves on a market day, was so much for the benefit of the master, as it was for the slave. The Assembly had not been influenced by motives of a selfish nature. They had, he firmly believed, been actuated by the desire of considering the interests of the negroes; and of proceeding in a due course of improvement, temperately and steadily. With respect to the immediate subject before the house, he admitted, that he had always entertained a great respect for the labours of the Wesleyan and other Missionaries in the West India Islands. Those labours had always tended to preserve that peace, which the gospel of Christ inculcated. Nor would he, for one moment, attempt to justify the outrage which had been perpetrated in the island of Barbadoes. With regard to the excitement in that island, that might, in a great measure, be attributed to circumstances connected with what had taken place in other West India Colonies as well as in Barbadoes itself. The Barbadians, apparently, were under great irritation. The Governor of Barbadoes, as would be seen from the papers which had been laid on the table, had been advised, that the provisions of the riot act did not extend to the island of Barbadoes; and that the calling out of a military force in aid of the civil power, would have cast a burden of considerable responsibility upon the Governor; and, subsequently, the opinions of

the first Law Officers of the Crown were applied for, and obtained, in England.—He must repeat his regret at the tone which the learned gent. always assumed, when he spoke of the West India Islands. It was a tone of menace: it was a hostile threat. It had no resemblance to the conciliatory advice of a sincere friend. If the learned gent. thought that by assuming such a tone, he stood a chance of doing good in the colonies, he was entirely mistaken: for, not only in Jamaica, but throughout the whole of the West Indies, nothing could be calculated more effectually to create irritation, than the course which the learned gent. uniformly thought proper to pursue.

Mr. Manning said he was very desirous of saying a few words, in consequence of what had fallen from the hon. member (Mr. Buxton) respecting the inhabitants of the Island of Barbadoes. The hon. member need not suppose that it was at all his intention to justify the outrage committed in that Island, by the destruction of the chapel. He had, from the moment of its occurrence, always expressed, both in public and private, his abhorrence of a conduct, which he had believed could only have existed on the coast of Africa. From all he had heard of Mr. Shrewsbury, with whom he had no acquaintance, he believed him to be a very respectable man; and this opinion was confirmed by Mr. Ross of Grenada, and other West Indian proprietors.—It had fallen to his lot to have seen a good deal of the inhabitants of Barbadoes, as well those resident in the colony, as in this country; and he would take upon himself to say, that a more honourable class of persons did not exist in any part of His Majesty's dominions. There were many persons there of liberal education and considerable classical attainment, and who were wholly incapable of giving any sanction to the act, of which the hon. member complained. It was however, to be recollected, that just previously to this act, the news of the insurrection in Demerara had arrived; and many persons in Barbadoes were impressed with a notion, that the Methodist Missionary there had been mainly concerned in promoting that tumult.—However lightly the hon. gent. opposite might think of those matters, he believed that, when any set of individuals conceived their lives and property to be in danger, they did not very coolly deliberate on the probable result of measures which they might take; added to which, just before this disturbance, was most unfortunately published a letter from Mr. Shrewsbury, written three years before to the Society at home, and which tended materially to inflame matters in that island. It was therefore hard in the hon. mover to impute the blame of this misconduct upon the majority of the inhabitants. He (Mr. M.) was old enough to remember Lord George Gordon's riots in 1780; when, for three days, in the heart of the metropolis, the Government was set at defiance by a lawless mob. As well might the hon. gent. if he had been a member of the house at that time, have called for a general censure on the inhabitants of London and Westminster. They had the best security against the recurrence of such measures, in the gracious act of His Majesty, in sending out the bishops and clergy to the West India colonies; and it was gratifying to see the manner in which they had been every where received. This was the best answer to the

many calumnies which had been thrown out against the proprietors of estates in that part of the world, asserting their reluctance to have religious instruction conveyed to their negroes. Although he should certainly prefer this good work to be done by members of the Established Church, he would not on this occasion omit his debt of gratitude to the Moravian and the Wesleyan Missionaries, who had certainly been very active, and done great service, in many of the colonies. In St. Kitt's alone there were above six thousand negroes in the congregations of the two societies to which he had referred; and, he believed, in Antigua, a still larger number. But he could not omit to express his regret, that the Wesleyan Society at home should have thought fit to disavow the proceedings of their Missionaries in the Island of Jamaica. A more injudicious measure, with a view to the beneficial results which they were all anxiously looking for, could hardly have been taken. Those persons, from motives of conscience, thought fit to give their observations on what they were daily witnesses of in that Island—an act of justice on their part, and towards which he could boldly assert, from the best authority, that no influence whatever was exercised with them—it was the pure, honest impression of their own minds, and for which he lamented to see they had incurred the displeasure of the Board at home. He could not conclude without expressing his surprise, that the learned member (Mr. Brougham) should, on this occasion, renew his attacks on the West India Legislatures; as if the application of harsh terms in that house, to persons at that distance, were the best means of obtaining a compliance with the wishes expressed by the learned gent. He would take leave to express his opinion, that, although they might not advance so rapidly as the learned gent. might desire, they were taking in many of the colonies—and particularly in Jamaica and Grenada—such measures, as would gradually and safely bring about such an improvement in the condition of the slave population, as all reasonable persons could desire. He had no wish to offer any objection to the Amendment, though it was a matter of regret with him, that, after so considerable an interval of time, it had been thought necessary to call upon the house for an expression of its opinion. He should very much have preferred, that the parties offending had been punished by the due course of law.

Mr. Canning said, in explanation, that the hon. gent. who had just addressed the house, considered the Amendment as comprehending the whole of the population of Barbadoes, and as casting a censure upon them all. This, however, was not the case. It reflected upon nothing but the act; for one of the difficulties, and, indeed, the great difficulty of the present case was, that the actors were not known, and therefore could not be brought to justice.

Dr. Lushington said that the hon. member (Mr. Manning) had failed in making out a defence for the extraordinary conduct of the white population of Barbadoes; whose supineness, under what had occurred, placed them in a situation, very little better than that of accessories after the fact. The magistrates of that Island had not only manifested a culpable remissness in the discharge of their duty, but had evidently shown a disposition to secure impunity to those who had committed the most disgraceful outrages against the laws of the

Island, and the peace of the community. It appeared, from the papers on the table of the house, the correctness of which was not disputed, that two of the magistrates, though cognizant of the outrage about to be committed, had concealed from the Government the knowledge of the illegal acts intended to be done; and they had thereby prevented the timely interference that might have stopped the commencement of the riots, or have enabled the Governor to suppress them before the object was accomplished, and to have detected and brought to punishment the guilty; nor had the Local Authorities, after the disapprobation of the Governor had been publicly declared, redeemed their character, by any zealous exertion to bring the delinquents to trial. He was satisfied, that the magistracy of Barbadoes had no just feeling of the atrocity of this transaction and that their errors were wilful. The utter inefficiency of the magistracy was not more to be censured, than the morbid state of feeling in the white inhabitants was deserving of reprobation. In what way had the Barbadians expressed their abhorrence of those scandalous acts? They had expressed no such abhorrence at all; and were, consequently, guilty of a criminal acquiescence in the offences which had been committed. He would take that opportunity of telling the West Indians, that, so long as they continued to shew such a total indifference to the due administration of justice, and the feelings of humanity, and such a contempt for the declared sense of that house and of the country, so long should he continue to take every opportunity of exposing unjust and unjustifiable proceedings. Censure had been cast upon the Wesleyan Society at home, for having manifested their disapprobation of certain resolutions published in Jamaica, by some of their missionaries; but, instead of censure, that body deserved the highest commendation for their immediate disclaimer of the unauthorized acts of a few of their missionaries, and for their bold and uncompromising avowal of the true principles of religion, justice, and humanity. That most respectable body had, very properly, declared their conviction, that slavery was inconsistent with Christianity. And, was there any man in that house who could rise and say, that slavery was consistent with Christianity—that the mild and benevolent spirit of Christianity warranted a system, under which the wife was torn from her husband, the child from its parent, the sister from her brother? When gentlemen set about founding measures of legislation on such a system, the ground sunk from under them: there was nothing in nature or in reason to support the superstructure. It was no wonder that the house should feel itself in an embarrassed situation, with regard to the government of these colonies: for, whenever an attempt was made to legislate on a system of slavery, difficulties would always arise, to perplex and confound the sagacity of the most skillful legislator.—He approved of the recent measures for sending out two bishops to the West Indies; but he sincerely regretted, that the first act of the bishop of Jamaica should have been to appoint the rev. Mr. Bridges as his chaplain—a gentleman who was only known as the libeller of Mr. Wilberforce. Such an appointment, he must acknowledge, had considerably shaken the trust which he might otherwise have been inclined to place in the new Establishment,

for, however he might differ from many of the opinions of Mr. Wilberforce, he could not avoid saying, that that enlightened and benevolent man had, by his invaluable exertions to obtain an abolition of the barbarous traffic in human flesh, built up for himself a character, which time could not efface, and which was entitled to the applause and everlasting gratitude of every one who was an enemy of slavery.

Mr. Buxton said, that he was abundantly contented with the alteration of the rt. hon. Sec. for Foreign Affairs; he had left what was all that he (Mr. Buxton) cared for—the declaration of the Commons of England, that they would have religious toleration in the West Indies. He rejoiced that the discussion had taken place, as it had given an opportunity to his learned friend (Mr. Brougham) to state the course he would pursue in the next session; and every man interested in the welfare of the negro population would join in considering the dedication of his most extraordinary talents to the cause, as the greatest matter of congratulation, which the abolitionists had yet enjoyed. He (Mr. Buxton) would hope, however, that the planters would avert the necessity of his learned friend's interference. He would entreat them to take warning before it was too late; he would say to them, "You have interests greater far than any other class; and interests which will be decided by your conduct now. The Abolitionists would pretend, that such enormities as those which had been described, are natural to slavery. They insinuate, that, in a state of society where one class are masters and the other slaves, there must be, and will be, cruelties, and blood, and a deadly hatred of all those who would impart knowledge or Christianity to the negro. But, it is your part to dispel the delusion, if it be one—to separate slavery from these its wretched accompaniments—to sever your system from a system of fierce persecution—to give the people of England the satisfaction of knowing, that there is law and justice for the negro and his teacher. You are in a perilous condition. The reproach of slave-holding is as much as you can endure. If you expect favour,—if you ask toleration from the people of England, you must demonstrate, that slavery is not inseparably connected with a host of other, and, if it be possible, greater evils than itself." If he were merely an enemy of slavery—if its extinction were the single (as it was the chief) object of his life—he would say—"Go on—persevere—open the eyes of the people of England. You have had your triumphs. The Missionary Smith sleeps in his grave, branded as a traitor—the Missionary Shrewsbury is an exile; his persecutors keep the anniversary of his sufferings, as a festival—the gallant Austin, because he acted with more true heroism than the conquerors of Austerlitz and Waterloo—because he singly stemmed the torrent of persecution, has lost his golden certainties of preferment, and is at this moment earning the scanty bread of a stipendiary curate in an English village. Proceed, then, faster and faster: you are doing our work: you are accelerating the downfall of slavery. A few more such triumphs, a few more such speaking testimonies to the merits of your system—and the people of England, with one heart, will abhor it, and with one voice will dissolve it." But, enemy as he was to slavery—and nothing human should win him or drive him to be any thing else than a

free to slavery—he was not for its rapid and terrible overthrow; and, therefore, he raised his voice in that house, warning the planters, that if they repeated these outrages—that if they would link persecution to slavery—slavery, which already tottered, would fall.

The amendment was then agreed to.

### *Cape of Good Hope.*

WEDNESDAY, MAY 18.—Sir N. Colthurst asked whether the commissioners at the Cape of Good Hope had made any report on the case of Mr. William Parker.

Mr. W. Horton replied, that he might almost reply in the negative.

Mr. Brougham said this was a droll answer to a very plain question. Nothing could surely be easier than to say "aye" or "no." If the hundredth part of what he had heard respecting Lord Charles Somerset should be confirmed by the report of the committee, it would be absolutely necessary to make a serious inquiry into the matter.

FRIDAY, MAY 27.—Mr. Hume rose to present a petition from Mr. Carnall, complaining of a series of oppressive acts to which he had been subjected at the Cape of Good Hope. It had been considered that British subjects resident in the colonies were entitled to all the rights and privileges which they enjoyed in their own country; but it would seem, from recent transactions, that they now enjoyed their liberty, property, and even their lives, at the will and pleasure of the respective Governors of our colonies. But he still trusted that if a case of clear oppression could be made out against the Government of any colony, the Government at home would not permit it to go unpunished. In this view the present case was an important one; all the circumstances detailed in the affidavit to which he begged to draw the attention of the house, had been verified on affidavit by the petitioner. To explain the case, he would enter on a short statement of facts. The petitioner first became acquainted with a Mr. Edwards, a notary at the Cape, in consequence of his having attended as a witness in a trial in which Edwards was concerned. On the 17th Sept. Mr. Edwards, then on his way from Cape-town to embark for Botany Bay, under sentence of transportation for having addressed a certain letter to the Governor, called, on the plea of sickness, at the petitioner's house, and was invited to breakfast. During breakfast Mr. Edwards retired, on some ordinary excuse, from the parlour, closely followed by the police-officer in attendance. He, by some means, then effected his escape; to which the petitioner averred he was no way accessory. On the news of this escape, the petitioner was forthwith seized by his Majesty's Fiscal, and committed to the gaol at Cape-town. He demanded to see the warrant of arrest; but none was produced. He was confined in a solitary cell, of about 10 feet by 12, from Dec. 17, to Dec. 24, with no other bedding allowed him for the first two nights than the stretcher and mattress on which the dead were laid out in prison, and both swarming with vermin. The petitioner was subject to fits, and was afflicted with several severe paroxysms during the first days of his imprisonment. But although suffering under these afflictions no relief was allowed him for several

days, and throughout the greater part of his imprisonment he was kept in solitary confinement, and debarred from any intercourse with his wife or friends, deprived of every comfort, refused the refreshment of wine or spirits, and incessantly annoyed by petty vexations quite unnecessary to his security. At last he was brought to trial before two commissioners of the Court of Justice, and found guilty of having assisted in the escape of Edwards, on the testimony of a Hottentot girl in his service, who had since confessed that her evidence was all previously dictated to her by one of the Fiscal's men, and her obedience exacted under the threat of a severe flogging. He was sentenced to a fine of fifty rix-dollars and a year's banishment from the colony. It might have been supposed that all this had been sufficient to satisfy the rancour of his persecutors. But his Majesty's Fiscal—who, on his first examination had declared that he would pay off an "old grudge" to the petitioner—his Majesty's Fiscal not deeming that debt yet satisfied, appealed to another jurisdiction and again brought the petitioner to trial. The second sentence condemned him to 5 years' transportation to New South Wales—a sentence afterwards commuted to 5 years' banishment from the colony. He was further compelled to give security for complying with this sentence by a deposit of \$2000 rix-dollars, and by other oppressive exactions. In the mean time his property was greatly damaged, and sold at a disadvantage; the proceeds were seized by Government; whether or not they had yet been given up, the petitioner was entirely ignorant, and in the meantime he was suffering under poverty, and reduced to total ruin.—Such, to omit details, were the main facts of this petition, which, in his opinion, detailed a case of as great hardship and injustice as it was possible to conceive. Every form of law and justice had been violated by the governor of the colony. It was repugnant to the principles of English law, that an individual should be tried for the same offence of which he had once been found guilty; but Mr. Carnall had twice been subjected to trial for the same offence. The hon. member concluded by declaring that the state of the law and of the government of the Cape of Good Hope was utterly intolerable. The powers of the Governor—put into operation under the semblance of legal proceeding—were so tremendous, that certain ruin was the portion of any man who became in the slightest degree, obnoxious to him. This was a condition of things which could not continue; it was a disgrace to the country that it should have lasted so long; and the Colonial Department would have much to answer for, if he could show—as he believed he should do if the case were referred to a committee—that Lord Bathurst and his colleagues were perfectly aware of its existence. For the present he should move, that the petition should lie on the table.

Mr. W. Horton rose to justify the conduct of the Colonial Department, and not to discuss the merits of the petitioner's complaint. The hon. member spoke as if the petitioner's punishment were the arbitrary act of the Governor. It was no such thing; it was the sentence of a court of justice. The petitioner had applied to the Colonial Department for redress; but was it contended that the Colonial Department ought to remit the penalty inflicted by a court

of law upon the mere affidavit of the party suffering it? If such were to be the doctrine, what colony could continue to exist? All that the Government at home could properly do, was to give relief where it was distinctly shown that injustice had been sustained. It was well known to what an extent this attempt was carried through the country to get up a feeling against the Government at the Cape. Since the month of Jan. 1894, there had been no less than twenty-four articles in one newspaper, inculcating the Government of that colony. The house was aware, that in the year 1823, a commission had been sent out to the Cape; did the hon. member for Aberdeen mean to impugn the character of the persons who composed it? Were they fit for the duty assigned to them? If they were, Government could do no more. The business of the commissioners was to assimilate the Dutch law to the English. That was a work which could not be done in a moment. They were farther to inquire into the administration of the law generally, and to report to the Government at home their opinions on that subject. Could more beneficial measures be taken or suggested? At the time when this very act of which the petitioner complained had been committed, these commissioners would be found to have been at the Cape; was it likely that, under such circumstances, any thing very flagrant would have been attempted? The petitioner had written to the Colonial Department, in terms sufficiently decided. He demanded that his sentence should be remitted, and compensation made him for the loss which he had sustained. Of course, the only answer which could be returned had been returned—that the authorities in England had nothing yet before them to warrant such a proceeding. He did not mean by any thing he had said, to depreciate investigation into the circumstances of the Cape; but he thought that the house ought to wait for the report of the commissioners of inquiry (hear, hear).

Sir M. W. Ridley and Mr. Ridley Colborne bore testimony to the high character and capabilities of one of the commissioners, Mr. Bigg.

Mr. Hume said that it should be ordered, and the sooner it was done the better, that every Governor of a colony, the moment he sentenced an individual to banishment, should send home all the circumstances of his trial and offence. As matters stood, the constant answer, when any atrocity was complained of, was—that Government was not yet in possession of proper information on the subject.

The petition was then ordered to be printed.

THURSDAY, JUNE 16.—Mr. Brougham said that he had a petition to present from Mr. Bishop Burnett, of the Cape of Good Hope, which stated sundry proceedings regarding the government of that colony, which were highly deserving the consideration of the house. He would open to the house the facts stated in the petition, and would then beg leave to lay it on the table, premising thus much—that he did not intend to make himself liable for the truth of the petitioner's statements. He had, however, made such inquiries of the petitioner respecting his statements, as had convinced him, from the tests to which he had put the petitioner's accuracy, that he was at least consistent in the story he told. The petitioner stated, that in the year 1820 he went out, under a contract with Government, as a settler in the district of

Albany, in the Cape of Good Hope; that he expended more than 20,000 six-dollars in prosecution of his design, and in order to show the house the lucrative nature of the speculation in which he employed it, declared that he had been offered from 7,000 to 10,000 dollars as the estimated gross produce of his first year's returns. The petitioner said that he had to complain of the proceedings of the colonial courts of law. He stated that he had been engaged in a suit at law with one Robert Hart, for the recovery of 900 dollars; that Robert Hart proceeded through forms of law with which he was utterly unacquainted to judgment against him, and that in consequence of that judgment he prepared to make a public sale of the petitioner's property. The judgment was followed up by a publication of his insolvency, though he had at that time a *bond fide* claim upon the Commissariat for forage he had supplied to it. He further declared that the sale had been as arbitrarily suspended by the Colonial Government as it had been illegally threatened, and that in spite of every remonstrance he had made on the subject, the affair had remained in abeyance for two years, notwithstanding the public judicial declaration of a Commission of Circuit that these proceedings were in error, and that the petitioner was not insolvent. He then instituted proceedings both against Robert Hart and the public sequestrator, for their attempt to ruin him by a false declaration of insolvency; but he found the proceedings of the Commission of Circuit so illegal and corrupt, as to convince him that no redress was to be obtained from such a quarter. He found that he had not only to struggle with the corruptness of the courts, but also with the decided enmity of the Colonial Government; in short, that Lord C. Somerset was his decided personal enemy (hear). The petitioner considered the cause of that enmity to be a fear on the part of the Governor lest there should be a scrutiny into his conduct by the Commissioners of Inquiry who had been sent out to the Cape of Good Hope, and a wish to get rid of a person who could give such strong evidence against him as the petitioner. The petitioner proceeded to state, that he found it his duty to represent his case in a memorial to his Excellency, with a *bond fide* view of obtaining inquiry and redress. His Excellency, however, not only did not institute any inquiry into the merits of the petitioner's memorial, but treated it after the precedent of James II., as a libel on the Government, and placed it in the hands of the fiscal for prosecution as a libel. Now, if this fact were true, it was a ground of impeachment against Lord C. Somerset (hear, hear). That was his opinion as a lawyer, and he had no doubt of its correctness (hear, hear). A prosecution for libel was begun. The petitioner stated, that "as no *lex loci* was applicable to his case, as there was no English statute nor Dutch decree, nor even summary enactment of a Cape proclamation, the fiscal obtained his conviction upon his own warranted assumption of Roman practice"—which Roman practice, if it alluded to the *lex regia*, was the most arbitrary of all practice, amounting in one stage of it to the infliction of capital punishment—"both contrary to the laws of the ten tables, of the pandects of Justinian, the acknowledged bases of that code by which the Batavian republic and its provinces had hitherto been governed." The result of the proceeding was, that the pe-

tioner was sentenced to five years' banishment from the colony for presenting a memorial to his Excellency which it was his duty to receive. The petitioner next complained of an attempt which had been made to charge him with the fabrication of a libel which had been issued against Lord Somerset, containing charges of the grossest kind; a libel which the petitioner declared he was as incapable of uttering, as Lord Somerset of perpetrating the atrocious practices to which it referred. The real author of this publication was a certain Jones, who proved to be no other than Mr. Oliver, the celebrated spy. He dared to say that Edwards and the illustrious Castles were there also: Why not? The patronage they had enjoyed at home was equally due to them abroad. But Oliver was assuredly there, engaged in the atrocious occupation at what he was so skilful. Such were the charges of the petition. It complained that the judicial institutions of the colony gave no adequate securities to the enjoyment of personal liberty and the rights of property. That the business of the commissariat department, instead of an open bidding for the supply of the rations for the troops, was settled by a private tender. The consequence was, that 23 stivers and a fraction were paid to the bailiff of the Governor's establishment for rations, which the petitioner says he would have gladly supplied at 10 stivers. He confessed that to himself and his colleagues about him this and the following charges looked and savoured too much of profit—they had, as it were, too lucrative an aspect. The next charge was relative to the exchanges of money, which were observed to run peculiarly in favour of his Excellency's arrangements, accordingly as his affairs required them. Whether he had to draw or to remit, he was sure to be fortunate with the exchanges. In cases of appeal to his Excellency from the tribunals, little good was to be expected, according to the petitioner, from the present administration of that court. A Dutchman of the name of Dune had succeeded in causes wherein he was appellant to his Excellency, "shortly after the purchase of one of his Excellency's horses for 10,000 dollars, which died after payment, and before delivery from the stables." He wished the house to consider this transaction. Ten thousand dollars for a horse! Why this was the dearest horse that ever was known since the horse of Troy; and it ought to prove as fatal either to the petitioner or the Governor as the contents of that renowned wooden horse did to the people of Troy. There was something peculiar in the nature of these things, which required explanation. He did not think the Governor capable of a twentieth part of the charges generally made against him: but if he were justly to be suspected of one half of these—if he believed there was evidence to support one half, he should feel it his duty as a member of parliament to impeach him. After some further remarks on the delay of the commissioners to the Cape in presenting their report, he said he should move, in the first place, for leave to bring up the petition.

Mr. W. Horton thought that the learned gent. had not treated him with the usual courtesy in not informing him of his intention to present Mr. Burnett's petition. He was happy that he chanced to be present. If the learned gent. would move for official correspondence on the subject, he would not object to its being laid on the table. This pe-

tition contained many charges which, in common with other charges against Lord Somerset, were matters of notoriety. In many points it would be necessary to wait for the report of the commission, before answers could be made to those charges. But one of the main charges was directed against the Judicial Establishments of the colony. Now the principal object for which the commission was constituted was with a view to assimilate the Dutch Law at present prevailing in the colony, to the English. As to the charge respecting the commissariat, he had never heard of it before. Undoubtedly, it deserved inquiry. As to that respecting the rates of exchange, measures had recently been adopted which would prevent the recurrence of any such transactions, if any such had taken place. Of the allegations of the petitioner on the subject he did not believe one word. The proposition was so monstrous, that on a *prima facie* view he had instantly rejected it. With regard to the allegation respecting the Dutchman and his cause, all that appeared, even in the petition itself, was a coincidence between an act of the Governor in his judicial capacity, and the act in his private character of selling a horse. Now he was sure he need not caution the house against giving ready credence to such reports as those, which assigned this transaction to an unworthy motive. If a twentieth part of the charges which had been preferred against Lord Somerset were true, he would be the first man to protest against such conduct, and was quite ready to second any proposition which the learned gent. might make upon it. But it was his bounden duty, in justice to Lord Somerset, to say that there was evidence which in his mind went to prove, that there was, to a certain degree, a conspiracy existing against that noble lord. The house should pause in giving credence to petitions urged on individual suggestion against persons holding high and responsible situations under government, and within the regular control of parliament.

Mr. Brougham said, that he would take an early opportunity of putting the sincerity of the hon. gent. to the test, in his offer to produce the correspondence. Would he, to begin the experiment, produce the correspondence of Sir Rufane Donkin? If, after this, it were refused, he should know what to think.

Mr. W. Horton declared that he was utterly unconscious of any correspondence of Sir Rufane Donkin being in his office, which contained any specific charges against Lord C. Somerset.

Mr. Brougham said, that he did not at first believe that Government would be willing to give up the correspondence. The hon. gent. chose to qualify what he had said. He had only spoken of the correspondence without saying that it contained any specific charge. By the conduct of the hon. gent. he was confirmed in his first belief.

Mr. Baring said, that the present debate was a proof of the bad system which had been set up for the government of this colony. Formerly, this country colonized upon a different plan; and by giving better institutions, she had established one colony, the power of which was likely to transcend that of any other state in the world. Latterly, the Government seemed to have adopted the Spanish principle of colonies; a little despotic government was set over each of them. He suggested, as a remedy to these grievances, the establishment, in each colony, of a representative system. As long



as the power remained despotic—no matter who was chief governor—it was not in human nature that it should continue for any time without abuses.

Mr. Hume was afraid that there was no very well-founded hope of seeing any report from these commissioners. He had seen a gentleman from the colony very recently, who had assured him that there was nothing there but arbitrary and despotic power. Any one obnoxious to the Government authorities was removed without difficulty. This petitioner was banished for five years, merely for sending in a memorial. Did the Governor send home any copy of it, or his own proceedings upon it? What grounds did he give for his own sentence? The hon. Sec. would find that the same opinions pervaded all minds in the colony. The 10,000 dollars for the Governor's horse were considered there as a most unquestionable bribe for the settling of an appeal in favour of the purchaser. The colonists looked upon themselves as being under a corrupt and despotic government. He had entertained some hopes of Mr. Biggs till now: recent accounts however had almost proved to him that they were groundless. Let the hon. gent. look well to it. Property would not be embarked in any undertaking on those shores, while the rights of property and of personal liberty were so much at stake. He (Mr. Hume) assured the house that he advanced what he had offered upon the testimony of men whose veracity had never been doubted.

Mr. W. Horton advised the hon. member to move for such papers as he thought necessary, giving the customary notice. He was not there to stand up for the system of Dutch and Roman law, which he admitted to be bad. But the Government had taken the very course now prescribed. It had not only appointed commissioners to make a general investigation, but it had within these few months, of its own free motion, directed that there should be a council appointed to act with the Chief Governor, and that they should take and remit minutes of their proceedings, bringing the colony, as far as they could, into conformity with the system of Indian Government.

Mr. Elliot said, that Government ought certainly to effect a revision of colonial law. Most of the colonies were governed by some old system now got into disuse in the countries from which the laws were derived. In the French colonies the old Bourbon law prevailed, though that was rejected at home in favour of the code Napoleon. And now upon a case of any complexity, even the French themselves could not agree upon the proper interpretation of it. Another great evil in matters of colonial law, was the fluctuation of the orders in council, which strangely unsettled it.

Mr. Brougham said, that if instead of moving that the petition should lie on the table, he should move to refer it to a select committee, it seemed that he would be doing that which best suited the views of all parties. Lord C. Somerset ought not to be the sport and victim of charges loosely ventilated in that house. If those charges were untrue, they ought to be able to punish the authors of such misstatements. Lord C. Somerset ought to challenge investigation, and Government ought to wish for it. If, however, the hon. gent. opposite objected to a select committee, he would for the present content himself with having the petition laid on the table, and printed.

Mr. Hume put a question respecting Edwards, to know if any measures had been taken in consequence of his banishment from the colony to which he was sent.

Mr. W. Horton said, that by subsequent accounts it appeared that Edwards had run away.

Mr. Brougham gave notice, that he would on Tuesday next move to refer the petition to a select committee.

WEDNESDAY, JUNE 22.—Mr. Brougham postponed his motion relative to the petition of Mr. Bishop Burnett until next session. Upon consideration, he thought it would be very unjust to open charges which, from the probable duration of this session, could not be answered.

Mr. Canning said that he had not been present when the petition was presented; but he had made inquiries since. He found that the circumstances had been referred to the commissioners sent out to the Cape. Leave of absence had also been forwarded to Lord C. Somerset, that he might, if he thought fit, return to meet the charges against him. But whether his lordship came home or not, the commissioners would prosecute their inquiry at the Cape; and until some return were made from them, no opinion could be formed on the case.

Mr. Brougham admitted that it would be unjust to agitate this subject now, when there was no chance for his lordship to be heard in his justification—especially under the circumstances detailed by the rt. hon. gent.

Lord E. Somerset seized the first opportunity which presented itself of assuring the house, that his noble relative was most anxious that his whole conduct, and the measures of his government should be submitted to the investigation of Parliament. The rt. hon. Sec. for Foreign Affairs had said that there were commissioners sent out to inquire. Undoubtedly it would be the first object of his noble relative to give the utmost facilities to the views of the commissioners. The sooner the investigation commenced, the sooner would his noble relative be relieved from the abuse and the attacks which were poured forth upon him. The libels which were uttered both here and at the Cape were numerous and atrocious; some of them were so inconsistent with themselves that they destroyed their own credibility. He implored the house to suspend their judgment (hear, hear), until the report of the commissioners had arrived. If his noble relative thought that his justification should need it, he would, without hesitation, avail himself of the leave of absence, and return home.

Mr. Brougham, to quiet the feelings of the noble lord who had just spoken, declared that he had never read a line against Lord C. Somerset, except so much as was contained in the petition; and except that petition, and a case in which he was engaged before the Privy Council, he had never heard of any charge being made against the noble lord.

TUESDAY, JULY 5.—Mr. Brougham presented a petition from Mr. Bishop Burnett, of the Cape of Good Hope, requesting leave to return to the Cape for the purpose of collecting evidence before the contemplated inquiry in the ensuing session of Parliament.

Mr. Hume said that Mr. Burnett had been banished from the Cape of Good Hope by Lord C. Somerset, and it was necessary that he should return thither to obtain evidence in sup-

port of his petition. He wished to know if he would be permitted to do so?

Mr. W. Horton said, that it would be necessary for the petitioner to show that he really had cause for proceeding again to the Cape, notwithstanding his sentence.

### Government of Ceylon.

WEDNESDAY, MAY 18.—Mr. Hume moved for a copy of the regulation of the government of Ceylon, dated the 12th of Jan. 1824, for removing all doubts respecting the right of the Governor of the island to arrest and detain in custody any person or persons for the same; a copy of the judgment of the Supreme Court of Colombo, of the same date, in the case of "*The King v. John Daniel Rosier*;" and for copies of all correspondence which had passed between the Government of Ceylon and the Colonial Office, on the subject of the same transaction. The ground of the motion was, that Rosier had been illegally arrested at Colombo, and, moreover, that the judgment of the Supreme Court upon that arrest wholly nullified the effect of the writ of *Habeas Corpus* in Ceylon. Mr. Rosier had been seized on board the ship *Madras*, which touched at Colombo on her way from Calcutta to England, and detained in custody, contrary to law, until the vessel departed, leaving him a prisoner.

Mr. W. Horton said, that Rosier was a deserter from the East India Company's service, and he believed that the Governor of Ceylon, Sir A. Campbell, had power to detain him. He had not the smallest objection to the production of all papers on the subject.

The papers were ordered to be laid upon the table.

### Hindoo Widows.

MONDAY, JUNE 6.—Mr. Hume said that he would call the attention of the house to a subject which, he regretted to say, had not been noticed in an earlier part of the session. He alluded to the Government of India permitting the practice of women immolating themselves on the funeral piles of their deceased husbands. He held in his hand a petition upon the subject, and it would be impossible for any member to give his attention to the subject without very anxiously feeling a desire that an end should be put to so revolting a practice. He wished to know when the hon. member for Weymouth intended to bring forward the subject, as he was in possession of a great mass of information relating to it. The evil was of a great magnitude: in the Presidency of Bengal alone, the numbers of immolations were as follow:—

1817	-	-	707
1818	-	-	839
1820	-	-	597
1821	-	-	654

It was surprising that the greatest number of these were at Calcutta, where the religion was the purest. This practice, he could take upon himself to say, was not enjoined by, or consistent with the Hindoo religion, and it was the opinion of the best informed people in that country, that an end might be put to this inhuman practice, without exciting commotion or danger of any sort.

Mr. F. Buxton stated, that he had refrained from bringing this subject before the house,

chiefly on account of the Burmese war; and the topics both of a civil and military character which had been agitated on that continent within the last two years. As the peculiar feelings to which these topics had given rise had passed away, he proposed in the first week of the next session to bring the question directly before the house. He remarked, that from the returns already made in five years, there had been in the province of Bengal alone 3,400 females burnt on the piles of their husbands. The real amount probably went far beyond the returns. He had been assured that the real numbers would be more like 10,000 than 3,000, in the province of Bengal alone. He feared that the conduct of government had unintentionally promoted this wickedness. The police of the Indian Government were required to attend the burnings, but they were directed not to interfere. This was construed into a silent acquiescence in these abominations. Now, what rendered these facts the more melancholy was, that the practice itself was not absolutely required by the Hindoo religion. Many of their Pundits had written expressly against it. Menu, their greatest law authority, merely said, that the widow must be prepared to practise austerities—to live chaste, retired, and abstemiously, or else she ought to ascend the funeral pile of her husband. A native author had described the descent of Albuquerque on the territory of Goa, and added, that his countrymen said much good of him, because he put a stop to the burnings. Some of the most active and intelligent of the local magistrates and judges had recorded their opinions that the practice might be put a stop to by the mere will of the British Government, and that the natives would be highly gratified with the change.

Mr. Tynt said that, the design of moving for a committee in the next session had been so directly avowed, that he having had considerable experience in this matter, from a long residence in India, could not refrain from giving some expression to his sentiments on this occasion. His mind was made up—that it would be highly dangerous for the British Government to interfere with a violent band in any thing which concerned the religious rites of the Hindoos. He had known a native of that country, the most enlightened of all the Asiatics whom he had met with, who was sufficiently convinced of the superiority of European education to make him resolve to have his children brought up in their schools. In a conversation with this person upon these burnings, enlightened as he was, and well inclined to Europeans and their manners, he justified the practice and said, "That is a point of our religion, and your Government must not interfere with it."

Mr. Wynn was convinced that parliament could do nothing in this matter with any propriety. They could not make laws for so vast a continent as they might for a limited territory, inhabited by people of one religion and one common sentiment. They were to consider the varieties of population and feelings, and other circumstances which must belong to a country measuring 2,000 miles from north to south, and the same from east to west. The task of suppressing the practice must be left to the discretion of the local authorities, and the directions which they would receive on that head from the Board of Directors.

Sir C. Forbes said, that when Lord Wellesley

was in India, 30 years ago, he might, had he not been restrained, have put an end to this practice at a blow. He had shown his power by the peremptory suppression of infanticide, which was as stoutly defended on the score of superstition as the practice of burning widows. But the case had materially altered. Since then religious jealousies had been awakened. A formidable church establishment had been erected; shoals of missionaries had been sent among them, and their feelings had been wrought up to an unprecedented degree of hostility. Still Government would do well to compel the Directors, and through them the local authorities, to interfere. The sacrifices were not voluntary. In every case they were the effect of persuasions from the Brahmins and the relatives of the women. The miserable victims would be happy to take refuge from these cruel suggestions under a law of the British Legislature. Until something of this kind were done, it would be in vain to expect from the local authorities any efficient means for suppressing the abominable rites.

Sir E. Hyde East was convinced not only of the impolicy of interfering, but that the sacrifices themselves were considerably increased by the repeated discussions in Parliament. He attributed many of them to the growing jealousy of the natives, and the shoals of missionaries who had mingled with them. If these men merely preached the Gospel, he would have no objection to their teachings; they might persuade the unfortunate widows, in the language of the apostle, that it was better to marry than to burn, but nothing effectual would be done by parliamentary interference.

Mr. Money referred the house to several instances in the reports, wherein local magistrates, intent on the discharge of their duty, had, by mere persuasion, prevented the burnings. In one province it had been prohibited, and the natives rested satisfied; nor were they known in a single instance to have sought an opportunity of eluding that regulation, though they had only to cross a river and enter the Mahratta territory, where they would be entirely free from it, and at full liberty to effect their cruel sacrifices.

The petition was ordered to be printed.

### *East India Judges' Bill.*

FRIDAY, MAY 13.—On the motion that this bill be committed,

Mr. Hume adverted to a provision which was contained in the fourth page of the bill, by which the recorder of Prince of Wales's Island was liable to be removed from his situation, at the pleasure of his Majesty. He wished to know, why the person appointed to the recordership should be placed in a situation different from other judges, who held their appointment for life?

Mr. Wynn said, the provision in question was not a new one, but was in conformity with the act or charter under which a recorder had been originally appointed. The only alteration in the present bill, was an enactment by which the judges were paid in India instead of British currency.

Mr. Hume objected to the appointment of a judge who was removable at pleasure. Such a system was dangerous as affecting the independence of judges. The house, perhaps, was not aware, that Indian governors had some-

times punished even jurors, because they had done their duty. If a judge were also liable to the visitation of power, he would be placed in a situation where he might find it beneficial to his interest not to perform his duty. It would not be forgotten, that at a former period Sir H. Gwillim had been removed from Madras, in consequence of a dispute between him and the Government. The system of intimidation was carried to such an extent that no man who differed from the Government could hope to escape proscription. Many persons had been banished, and within the last month two indigo planters had arrived in England, having been deported from India without notice or trial. It became the duty of the house to consider whether such a system could safely be allowed to endure. The half-castes were not allowed to sit on juries, and yet they were allowed to hold land; while Englishmen who possessed the former privilege were wholly precluded from the latter. It was quite necessary that some system should be established for securing the independence of the judges in India, and interposing the protection of a jury between British subjects and the public authorities.

Mr. Wynn said, that the judges were in fact independent of the local authorities, and could only be removed by the Crown. He admitted the possibility of disputes arising between the judges and the governors, but even in such cases the difficulty, almost the impossibility of bringing over the witnesses necessary for investigating them, rendered the exercise of a discretionary power necessary. He would be quite ready to give his attention to any measure which should propose a practicable remedy to the existing defects.

Dr. Phillimore said, that if any alteration were necessary, it must be provided for by another bill; but that now under discussion contemplated nothing but a change in the judges' salaries.

Mr. Hume had no objection to the judges' salaries being raised, but he complained that the most important interests of India were neglected, while such paltry considerations as these occupied the attention of the house. The hon. gent. read an extract from a letter, written from India, setting forth the evils of the present system; and concluded by asserting that it was unavoidably necessary to restrain without delay the power which the Government at present possessed of transporting any individuals who might become obnoxious to them.

Mr. Wynn had no wish to prolong the discussion, but he would tell the hon. gent. that the judges of India were as honourable and independent as any of those in this country. The greatest care had been taken in their selection, and in their subsequent conduct they had never shown themselves subservient to the power of the governors. The power of deportation was granted by the last charter, and when it should again come to be considered by the house, it might be restrained in such a manner as the circumstances might authorize.

Mr. Hume had no doubt of the ability of the judges in India, but they ought to be as independent as they were able. He suggested the appointment of a temporary judge in cases of vacancy, in the same manner as was provided in case of vacancy among the members of council.

Mr. Wynn saw several objections to the pro-

posed change, especially to the temporary appointment of a barrister as judge, who must afterwards descend to the bar.

Mr. *Hume* objected to the clause empowering the authorities of India to transport offenders to Prince of Wales's Island, or any other place, to which they might at present be sentenced, because the climate of that island was such as to ensure the death of almost any European who should be condemned to hard labour there.

Sir *C. Forbes* proposed, that the salaries of the judges should be raised from 48,000 to 60,000 rupees, and moved an amendment to that effect.

Sir *C. Cole* seconded the amendment.

Mr. *Wynn* said, the late loss of life rendered it necessary to offer every temptation to persons qualified to fill these offices. The proposed alteration amounted to not more than 200l. per annum, and he therefore thought it was not worth while to adopt it.

The amendment was carried.

On the clause which enacted, "that one year's salary should be given to the family or next representative of a judge dying in India,"

Sir *C. Forbes* proposed, that if a judge should die on his passage out, his next representative should be entitled to a full year's salary.

Mr. *Brougham* approved of the amendment. He also thought that judges should be entitled to a pension after seven years service, instead of ten years, as was the practice at present.

The Chairman reported progress, &c.

MONDAY, JUNE 13.—The order of the day for the further consideration of the report on the Judges' Salaries bill having been read,

Mr. *Hume* said, he was desirous of proposing a clause to enable natives and half-castes to serve on juries in the presidencies of Madras and Bombay. The courts-martial in India were composed solely of natives, and the manner in which they were conducted was such as to give the highest satisfaction. He should follow up this motion with other clauses, empowering the several high sheriffs of Calcutta, Madras, Bombay, &c. to summon on grand and special juries, according to their several qualifications, all subjects of the King born within any of such presidencies, or other parts of India under the protection of the British flag; and also to make foreigners within our jurisdiction, service, or protection, in India, competent to serve on juries; and if the house should entertain these clauses, he would finally move another, empowering the same parties to serve as jurors on civil cases in India (hear).

On the first clause being read,

Mr. *Wynn* opposed it in its present shape, at the same time concurring in the principle which recognized the eligibility of our native subjects in India to serve as jurors generally. But he did not think that to enable them to act as jurors in civil cases would be an arrangement which would operate beneficially for the interests of our Indian empire. The rt. hon. gent. intimated his intention of bringing the subject, in a different form, before parliament in an early period of the next session.

Mr. *W. Smith* thought that the clause should not be brought in at the tail of the session. That there should be some intermediate judges between the Europeans in India and their

Indian subjects, between those who commanded and those who obeyed, was a matter of the most essential consequence to the welfare and best interests of both parties. But he should apprehend that the mere expression of a strong opinion to this effect by the rt. hon. gent. would answer every purpose in view.

Mr. *Trant* observed, that if the hon. member, in consequence of what had fallen from the rt. hon. gent. had not yet given up his intention of moving for an enquiry into the administration of justice in India, he would recommend him to consult a very able book on that subject, by Mr. Fullerton, at that time a member of Sir Thomas Munro's council at Madras, and now Governor of Prince of Wales's Island. The hon. gent. read a long extract from the work in question, tending to show the cumbersome and unwieldy system of the present proceedings in the native courts. If, however, it should not be the intention of the hon. member for Aberdeen to persist in this intention, he pledged himself, should be, in the next session, have the honour of a seat in that house, and it should appear that the rt. hon. President of the Board of Control was not inclined to originate any such proposition as he had promised to do in respect of Madras, he would himself submit a motion for the adoption of the inquiry in question. (hear).

Mr. *Hume*, in consequence of what had been said by the rt. hon. gent. would consider whether he would not bring in a bill hereafter, and the clause was withdrawn.

LORDS, THURSDAY, JUNE 30.—The Earl of *Liverpool* moved the third reading of the Judges' Salaries bill.

The Marquis of *Lansdown* objected to the exclusion of that part of the population called half-cast from all civil duties, a practice which he thought likely to be attended with disagreeable consequences. He advised the extending to juries in India the power of assessing damages in civil cases; and he also suggested the propriety of allowing natives to sit on juries. As they performed every kind of military duty, he thought it was time to consider how far it was practicable to make the more respectable part of the natives discharge civil duties.

The Earl of *Liverpool* observed, that the suggestions of the noble marquis could not then be made a subject of consideration. Whether right or wrong, they had no reference to the measure before their lordships.

The bill was then read a third time.

### *Banishment of British Subjects from India.*

COMMONS, THURSDAY, FEB. 24.—Mr. *Hume* rose to submit a motion on this subject. It was well known that the India Company had the power of banishing any persons who interfered with the trade of that country. This power continued until the 53 Geo. III. by which the trade was in a great measure thrown open to all British subjects trading from England. If he understood this act rightly, it was intended to give a vent to the capital of Great Britain; but the practice which had since grown up, was, he thought, in opposition to the spirit of that act. That law declared in substance that no man was to be removed by the mere freak or whim of any

Governor or President in India, and that such removal should only be ordered in cases where the presence of the particular individual was likely to disturb the country. Nearly half of those at present trading and residing in India had not a regular licence to remain. They had been permitted to remain and to trade, but it mattered not, in his opinion, whether a man had a licence to remain or not; if he were settled there, it was unjust, and against the spirit of the act, to send him away. Under the government of Mr. Adam and Lord Amherst, many persons who had been settled in India, in a prosperous trade, had their prospects entirely ruined by being sent out of the country. Many of those persons had been long settled in the country; and he would contend that their banishment was an act of great cruelty and injustice. It was said that the exercise of such a power was justified by the act of Parliament. If it were, he maintained that such an act was against justice and policy. It was not necessary for his purpose to detail acts of this kind, which had originated in personal feelings and motives; but, leaving such cases out of consideration, he would assert that the effect of the general practice was, that no person in any of the presidencies durst express his opinions, if those opinions should be hostile to the Government. Some Governors were, he knew, more liberal in this respect. Lord Hastings, for instance, did not think it beneath him to submit his conduct to the opinions of the European population in India; and though the proceedings of the noble lord in this instance were not quite pleasing to the Government at home, yet it showed his liberal feeling on the subject. The conduct of Governor Adam and of Lord Amherst in this respect was quite different. They had sent away certain individuals for the expression of opinions through the medium of the press, and had enacted such restrictions on the press in general, that a general gloom was cast over the public mind in that country; and the fear of deportation was so prevalent, that no man dared express his real sentiments upon what was passing in the country. The consequence was, that the people of this country were, generally speaking, as ignorant of what was passing in India, as of what was done in Japan. A war was now raging in India, and yet the English public knew scarcely any thing about it. The effects of this system of restriction on the press were seen in the deportation of Mr. Buckingham from India, and in the atrocious conduct pursued towards Mr. Arnot. After such conduct, the persons at present connected with the press in India could only pursue one course: if they wished to remain in India, they must remain silent on all subjects the discussion of which might be displeasing to the Government there. He had in his possession two notes sent to individuals connected with the press of India, cautioning them against any notice of the case of Mr. Buckingham, or of the conduct of the Government in general. Such a system was, he contended, contrary to the spirit of the regulations established when the courts of Calcutta were formed in 1775. It was then declared, that every person resident in India should be under the protection of British law. In the recent cases, that protection had been wholly withdrawn, or set at naught by the local authorities. It had been lately the fashion to say, that the British possessions in India hung by a thread. This he denied. While we maintained an army of 250,000 men in that

country, it was impossible that we should lose our possessions there. But the best way to ensure the permanence of our power, would be to allow the exposure of delinquencies by the press. If that were prevented, mischiefs of the most serious nature would ensue. He concluded by moving for "a return, showing the number of British-born and other European subjects removed from any of our presidencies in India by order of the local governments, or by direction of the Company here, stating the cause of such removal, and whether it had been attended with personal arrest or imprisonment; and if so, for what period, and where, and whether such arrest had been followed by any judicial proceeding; the return to include the names of all persons so banished from the year 1784 up to the present year."

Mr. Wynn said, that by the act of 1793, any man resident in India without a licence was guilty of a high misdemeanor, for which he was punishable by fine and imprisonment; and that the act of 1814, which made no difference as to the amount of the offence, only gave the authorities leave to send him out of India without subjecting him to a public trial. The hon. member had made several observations relative to the manner in which the permission to remain in India was granted by the Governor-general. In answer, he would observe, that the act provided, that if the Governor-general found any individual resident in India without a licence, and granted him permission to remain there, he should state in his despatches to the Court of Directors his reason for granting such permission. This was the most easy and natural mode of proceeding; for it would be very hard indeed upon the Governor-general to call upon him to state his reasons for sending an individual away. The hon. member had also said that no person could go to India without the special leave of the Court of Directors, thereby insinuating that it was matter of some difficulty to obtain it. The applications which had been made for such leave since 1814, were 963; of these 743 had met with a successful issue from the Court of Directors, and 41 with the same from the Board of Control: so that in the whole period there had not been more than 179 refusals. The hon. member had found fault with the act, because it provided that a man without a licence might be removed by the Governor-general's power alone. Now, he could inform the hon. member, that no man could be removed by the power of the Governor-general alone, but only by the Governor-general in council. Therefore, every member of the council had a right to state his opinion with regard to the propriety of removal, and thus there was some control upon that arbitrary exercise of power against which the hon. member had claimed so warmly. He was ready to give in substance all the information for which the hon. gent. asked, though he could not consent to his vague and extensive motion. He would therefore move, as an amendment, that "there be laid on the table of the house a return of all persons removed from, or ordered to quit India, from the year 1784 to the present time, on the ground of their being found in India without a licence; together with a return of all persons whose licence or permission to remain in India had been revoked, stating the special ground of each revocation, distinguishing the persons who had licences from those who had

received permission to remain, stating whether such removal had been preceded by any personal arrest or imprisonment, for what time and at what place in India, or preceded or followed by any judicial proceedings in India or elsewhere."

Mr. Hume submitted to the amendment, though he said it would by no means fully answer his object.—The amendment was then carried without a division.

### *Imprisonment in India.*

TUESDAY JUNE 7.—Mr. Hume said, that he moved two years ago, for returns of persons confined by the several governments of India, without the form of trial, for reasons of state policy, or other pretences of the like nature. As the power of arbitrary imprisonment was in all countries to be watched jealously, so there were reasons which made it particularly desirable that there should be strict limits put to its exercise in India. The peculiar character of the country, and the defenceless state of the people—their distance from the Supreme Government—every thing tended to create objections to the exercise of the power of imprisonment without first instituting legal proceedings. In a former debate, the rt. hon. Sec. of State for Foreign Affairs had been understood to express a wish that there should be a law passed to prevent appeals to the Supreme Government from the decisions of the presidents in council. He considered that this observation of itself greatly aggravated the dangers of abuse. He did not say that Europeans had often been imprisoned arbitrarily; but there could be no doubt that many natives, of high caste, must have suffered under circumstances of hopelessness and solitude, to think upon which must be appalling to the minds of Englishmen. At all events, if the existence of such a power were requisite, the greatest precautions were necessary for its control. He concluded by moving for returns of "all persons imprisoned by the Governors in council of the several presidencies of Bengal, Madras, and Bombay, without the institution of judicial proceedings, and without a verdict obtained against them; distinguishing the number in each government in each year; the time, place, and all other circumstances of their actual imprisonment; the causes which induced the governments thereto, the periods of confinement, and the age, sex, and rank of the parties."

Mr. Wynn said, that the returns were incomplete for Bengal, which was the most considerable presidency, though for the others they were made up. He agreed in the principle of the hon. gent., that the power of arbitrary imprisonment ought to be rarely exercised, and that it should be carefully watched. But there were circumstances which made it impossible for the Government to do without it in India. Individuals might, in consequence of the wars in which they were engaged occasionally with the natives, and other political circumstances of a threatening nature, be subjected to restraint or actual imprisonment from the necessity of the case, without reference to their guilt or innocence. The sons of Tippoo Saib were under the strict observation of Government. He could easily conceive reasons which would make it indispensably necessary to restrain their liberty, though he was not aware of an offence which could be imputed to them. He

had no objection to the motion, though he did not believe that the returns would furnish any good grounds of complaint against the resident governments.

Sir C. Forbes thought that it would be more advisable for his hon. friend to move for copies of the memorials addressed to the Supreme Government, and forwarded to the India House, by persons suffering under arbitrary confinement. He was afraid that it was too common a case for the governments there to keep back memorials from the directors, while the parties were languishing in hopeless confinement. One case he knew of. The Rajah of Anginore had fallen under the suspicion of the resident government for no other apparent reason but that he was beloved by his subjects. His aunt, or sister, more subservient to the British authorities, was put in his place. He had been in close confinement 15 years. In that period he had remitted three memorials. He had seen the copy of one of them, and mentioned it to a director, who assured him that no such paper had reached this country. He very much regretted the little attention which was given to India affairs in Parliament. The very mention of India, it had been said by a foreigner, was enough to clear the house. He regretted the discontinuance of the custom of bringing forward in every session an Indian budget—a practice which was first discontinued when Lord Mulgrave was at the head of the Board of Control. The temptations to acts of tyranny and arbitrary power would be much fewer, and the complaints of grievances would gradually cease altogether, because parliament would find remedies for them all. He remembered what the rt. hon. Sec. for Foreign Affairs had said upon those appeals. No doubt, considering how many complaints there were coming from every part of the continent against the conduct of the Indian Government, the rt. hon. gent. on going out would have found it very convenient to carry a law in his pocket to prevent them for the future.

Mr. Canning denied the sentiment attributed to him of wishing to stop appeals from the local to the Supreme Government. So far was that representation from being true, that it was in fair interpretation, the reverse.—And now he recollected the fact upon which he had been induced to speak. Certain European bankers having made loans to the native powers, which were expressly against the law, attempted to persuade the Supreme Government to interfere with those native princes to get back the money lent. In reference to these designs, he had expressed a wish that there should be a law passed to prevent any appeals to the Supreme Government, on occasions of this kind, where the original transactions had been in contravention of the law. Nay, more—he would now say deliberately, and in the face of any East India loan contractor whatever, that all the opprobrium, all the scandal, all the shame and reproach which fell upon the British Government in the minds of the natives might be traced to these scandalous and unlawful loan transactions. And this was to be converted into an express desire to deprive the natives of their right of appeal to the Government at home. Could any man deny that the effect of the slightest interference on the part of the British Government in this business fell nothing short of absolute command, and extortion of payment for those loans which were made contrary to

law? Was not his purpose, therefore, to defend the natives, and not to oppress them? He expressed his sincere wish that those loans might never be paid. If his voice could reach any of the native princes, from whom a single rupee was owing, he would caution him against paying it, and assure him that he was in no danger from the power of the Supreme Government.—He did not know to which of the hon. gentlemen he was indebted for this compliment. They sat on different sides of the house; but so strong was their identity of feeling, if not of person, that they themselves were a little confounded by it. One hon. gent. did not know whether he himself, or the other hon. gent. had the paper in his pocket. They were very like two gentlemen in the *Spectator*, who were so closely united, that they were thought to have between them only one opinion, one idea, one religion, and one hat.

Sir C. Forbes said, that he could assure the rt. hon. gent. that he would never be found saying any thing in his absence which he would not say to his face. He would venture to tell the rt. hon. gent. that which his friends, perhaps, would be slow in telling him—that his wit was often misapplied, and injured the cause he would serve. He had said in the presence of the rt. hon. gent. on a former occasion, that which he now repeated; that if the rt. hon. gent. had gone out to India, he would have found it very convenient for his comfort on arriving there, to have taken out that loan, which he then proposed, in his pocket. As to the debts of the native princes, and the unlawful character of the loans, he had nothing to do with them. He had never advanced a single rupee to the native princes, and most likely never should. The rt. hon. gent. might have spared his ill-tempered wishes, and the thundering tone and manner in which he expressed them.

Mr. Hume said, that the assertions of the rt. hon. gent. were as opposite to the real state of the question as they were unwarrantable in the manner of advancing. It was not for him to persist after a member had disowned particular expressions. But sure he was that the impression conveyed to his mind was that which he had expressed to the house, and which had called forth the observation of the hon. bart. opposite.

The motion was then carried.

Mr. Hume had already called the attention of parliament to the propriety of allowing that class of natives in India who were called half-castes, to serve as jurymen. If the house would only allow those memorials from the half-caste natives to which he had referred to be produced, it would find that the Court of Directors and the Government of Calcutta had done every thing which was calculated to outrage and distress the feelings of the Indian people. He now begged to move “for copies of any memorials or representations submitted to the Government of India, by the Indo-Britons respecting their petition; together with copies of any representations or memorials to the Governors or Governments of India touching their present condition, and of any proceedings which may have been had thereon; and of all correspondence relative thereto, between the Indian Government and the Court of Directors.”

Agreed to.

Mr. Hume then said, that at the time Lord Hastings was in India, his lordship, taking into consideration the sufferings of this half-caste,

made a minute in council authorizing their nomination to certain local appointments in different parts of India. This, like many other good orders, had been rescinded by the subsequent government. He moved, “that there be laid before this house copies of the Marquis of Hastings’s minute of council in the year 1817, respecting the appointment of Indo-Britons to certain offices in India, and of any proceedings or correspondence thereon.”

Mr. Wynn could find no such minute as the hon. gent. referred to; though he had discovered a document by which it appeared that the half-caste Indians had been employed by our Government in India. If the hon. gent. could afford him any information in the matter, he should be very glad to avail himself of it; but meanwhile he must be aware that other matters were frequently mixed up with minutes of this kind, which it might be quite improper to publish in this incidental form.

Mr. Hume could not imagine what objection could lie against his motion. If there were really no such minute in existence, the return to his motion would of course be *nil*, and there would be an end of the matter.

The motion was not pressed further.

### Dr. Bryce.

Mr. Hume next called the attention of the house to the case of Mr. Bryce, who had been appointed clerk to the stationary committee of the Governor in Chief; and in respect of whom the Presbytery of Scotland were now discussing whether any Presbyterian clergyman could lawfully hold a plurality of offices of any sort. Mr. Buckingham having published some remarks on this gentleman’s appointment in his paper, which was widely circulated over India, was on that account alone, banished from India; and another individual for a similar offence had been imprisoned, whom it was understood that Lord Amherst had persisted for several months in keeping in confinement. Now Dr. Bryce was an acknowledged writer in the *John Bull* in the East—the *John Bull* of India (a laugh)—a twin brother of the *John Bull* of London. The Presbytery considered that it was not for the honour of the Scotch church that this individual should continue a member of their body and retain this office. And it seemed of great consequence that the house and the country should have the opportunity of considering the conduct of Mr. Adam and Lord Amherst in their government of India, as displayed in single acts of this kind, as more general inquiry was denied. He moved, therefore, “for a copy of the minute of the Supreme Council of Bengal, by which the Rev. Dr. Bryce, chaplain to the Scotch church at Calcutta, was appointed clerk of the stationary committee; together with a statement of the duties to be performed in that office; and copies of any correspondence that had taken place on the subject between the Court of Directors and the Government of India.”

Mr. Wynn conceived that the hon. gent. had failed in laying the slightest ground for the production of these papers. Of Dr. Bryce’s appointment there could be no doubt; it was as certainly disapproved by His Majesty’s Government in England, as soon as it was known; and in consequence, orders had been dispatched to India directing it to be revoked. Some delay had intervened in the execution of those orders,

and Government here were still awaiting further information on the subject, having concurred in the directions transmitted for cancelling the appointment.

Mr. Hume contended that the revocation of the appointment was no valid objection to his motion. He expected to discover from the papers a good foundation for a charge of misconduct, either against the Government of India, or some individual member of it.

Mr. Denman could not imagine why the Government of India should refuse to do that which the rt. hon. gent. admitted to have been proper, and which was an order prompted by the Board of Directors here. It would be the duty of the house to accede to his hon. friend's motion; and his hon. friend would desert his own duty if he failed to take the sense of the house upon so reasonable a proposition.

Dr. Phillimore objected to Mr. Hume's withdrawing his motion, as if it were allowed to be withdrawn it would be re-produced on a future day; and the appointment being revoked, the production of the documents was useless.

The gallery was then cleared for a division, and the numbers were—Ayes, 26—Noes, 74—Majority against the motion, 48.

### *Burmese War.*

TUESDAY, MARCH 29.—Mr. Hume rose to move for certain papers relating to the Burmese war. The information of which the house was at present in possession on that subject was so scanty, that it would not enable individuals who were acquainted with India, much less those who were not, to come to any conclusion upon it. He was anxious that the house, when it should meet again, might come to some opinion as to the causes of the Burmese war, and as to the manner in which it had been conducted. He did not intend to give any opinion upon it now; but as certain documents were referred to in the papers already printed, he now moved for their production. It was stated that it would appear from certain documents that the Burmese had been encroaching on our frontiers near Chittagong ever since the year 1822 or 1823. In the papers now before parliament, it was asserted that the island of Shahpooree belonged to the East India Company, and that the Burmese had taken possession of it. That small island was therefore the cause of the war. From time immemorial, it had been in the possession of the Burmese. The East India Company now said it was their's; he wished, therefore, to see the document by which it was made over to them. His next object was to ascertain the extent of Shahpooree and the revenue it produced. That object might perhaps appear to some unnecessary, as it was admitted to be of no value at all. Still he wished the point to be placed before the house in an authentic form. The fourth return for which he moved was the number of troops stationed in Shahpooree, and from what period. His object in moving for this return, was to show that we had no troops in that island till very recently, and that we were the aggressors on the Burmese territory in stationing them there.—Ordered.

### *Indian Army.*

THURSDAY, MARCH 24.—Mr. Hume rose to move for the copy of the despatch of the Marquis of Hastings, of the year 1819, respecting the

organization of the Indian army. He began by observing, that nothing was more desirable in regard to the Government of India, than that it should not be annoyed by the improper interference of Parliament, or any other body at home. The authorities of this country were confessedly so little calculated to manage the concerns of that distant and extensive Empire, that its affairs were necessarily and prudently left to the administration of those appointed to govern in India by the Crown. With regard to those persons, he admitted that there had been a succession of wise and able governors, and he had hoped that under the Marquis of Hastings, who had shown himself one of the persons best qualified for the station, that the prosperity of those possessions would have reached the highest pitch. He had expected that the liberal system of European politics, penetrating these distant provinces, would have removed the shackles which restrained the resources of that country. He entreated the house to weigh well the effect of good or bad government upon that large and fruitful territory,—to consider its extent and resources, and to reflect upon the powers by which it was held in obedience to the British. A military force, only 22,000 Europeans, held an extent of country reaching from the utmost Indus to the Burmese frontier—from the mountains of Thibet to the southernmost point of Asia. The population of this immense tract, amounting to 80 or 90 millions, had settled down in peace with us. The offices of Government were ably filled—the civil servants in good understanding with each other. This state of things continued while the Marquis of Hastings remained in India, and for some time after his departure. The case was very different as soon as Lord Amherst was sent out. He did not blame Lord Amherst for going, but he blamed those who sent him (hear). Nobody who knew any thing about the Government of India, or was at all connected with that country, could conscientiously declare that he thought Lord Amherst a proper person for such a situation, however amiable his lordship's private character—a point which he readily conceded to hon. gentls. opposite. In a time of peace, with the assistance of an able council, Lord Amherst might possibly be competent to discharge the duties of his station; but in a time of war, when numerous and skillful enemies were attacking our frontiers, he was very incompetent to the post (hear). A period of little more than two years had sufficed to verify the fears of many who conceived that Lord Amherst ought never to have been sent out in so arduous a capacity. The country had been plunged into a war which could not now be closed with advantage to the interest of the East India Company. For the sake of the argument, however, he would admit that the Burmese war was just and proper, and, under the circumstances, unavoidable. But then came another question—how a war of this kind, having been commenced, ought to have been carried on and continued (hear)? The declaration of the Burmese war was unnecessary and precipitate, even if, on more reflection, a similar step had been determined on. But the conduct of the war was still less defensible. Every body was aware that India had its periodical rainy seasons, during the prevalence of which no military operations could, with propriety, be commenced. This was a fact of which he spoke from his own experience. He had himself been in camp to the



wet season; and he knew well the disastrous effects which service at such times produced upon European constitutions. In a wet season, out of an European force of 10,000 men, not more than 1500 remained available. It had been the invariable rule of all former Governor-general to undertake no war during such seasons. Now, seeing that Lord Amherst was vested with full powers to act, and that without control from other quarters, his determination to advance the troops upon Rangoon, at such a period, must rest on his own head. Our troops had made repeated attempts to bring the main force of the enemy into action; but in these attempts they had been unsuccessful. The consequence of these delays, the weather, and their fatigues, had been a mortality among them, so dreadful in its amount, that he was almost afraid to state what he had heard upon that subject (hear, hear). Unhappily, no certain public information was now officially communicated in such cases by the Government of India; and the press in that country not being allowed to speak out on political subjects, he could only resort to the medium—possibly a perverted one—of private letters. If he might speak upon such authority as that—if he might speak from letters written by parties actually on the spot—he should state to the house, that on the part of the Europeans we had lost by disease and casualties, from 800 to 1000 out of 10,000 men (hear). Taking the lowest average, the mortality arising from these causes, and from the diseases to which persons not accustomed to such fatal seasons must inevitably be exposed during such a state of operations, had certainly been most alarming and extensive. The general result of the campaign had excited a degree of alarm over Hindoostan, such as had scarcely ever been experienced before. It had never been heard of before, that the Bengal native troops refused to march on a service of danger and importance, unless, indeed, he were to except a mutiny that occurred among these troops in 1795, in the new appointment of some commanders of corps—appointments which had never since been renewed. To the honour of the native troops, instances of insubordination were very rare. The native army at present stood on very ticklish ground (a laugh.) A severe example had been made of the mutineers among them; and, indeed, it was felt by those who were best acquainted with the subject, that it had been much more severe than it ought to have been. He was at a loss to know what was the original cause of the late mutiny at Barrackpore—whether some misunderstanding of the orders of the Governor-general, or some difficulty in executing them, occasioned by the Burmese war. When he hinted at the severity of the punishment, he would not for one moment defend the recourse of the parties to arms (hear). However grievous, or even just their complaints, the welfare of India required the immediate suppression of their mutiny. But after its suppression, the Government might have had time to inquire into its detail with calmness; and had the Governor-general, or his Council, been competent to their offices, the matter would have taken a very different course from that which it had done. Was it possible that in any country—but in India of all others—any government could, under circumstances so unfortunate, resort to a measure of such extraordinary severity, as to confound the innocent with the

guilty (hear)? For his own part, he did not know of any instance in the annals of military punishment, that could furnish a parallel to that inflicted on the 47th native regiment (hear). When the three officers who were deputed to undertake that difficult duty, had exhausted every effort to repress the mutiny of the corps, and to induce them to return to their duty, they called upon all those who were true to the Government, to separate themselves from the mutineers. Every commissioned and non-commissioned officer in the regiment left the ranks, and returned with the three persons composing the deputation (hear). Now, would it be believed, although the statement had been published in the Calcutta Gazette, that the Governor-general had thereon issued a proclamation, in which he stated that it was impossible the mutiny could have taken place without the privity of the commissioned and non-commissioned officers of the regiment; and that therefore, as being no longer worthy to serve in the armies of the Government, they were dismissed from the service with infamy (hear, hear)? Such was the treatment of these gallant men, whose fidelity, instead of punishment, should have met with reward and honour. It was after their dismissal—as if to heap blunder upon blunder—that Lord Amherst added, that a court of inquiry might be instituted into the conduct of these officers (hear)—that was, after they had been already punished and degraded. If he were rightly informed, the despatch to the Court of Directors, announcing the intelligence of the mutiny, concluded by stating, that if it should appear, on enquiry, that the conduct of the native officers was justified, they might be reinstated in their rank (hear). He called upon every gentleman who had received letters from any of the presidencies, to declare whether people in all parts of India were not agreed that Lord Amherst was the most incompetent man for his high office that could have been selected. It had become an act of duty on the part of the house to inquire whether Government at home had yet taken any measures with regard to this nobleman's appointment (hear, from Mr. Wynn). He was glad to hear that cheer from the rt. hon. gent., which seemed to say that he could justify the policy of late pursued in India; he was glad that matters were not quite as he described them; but when official information was so studiously concealed in India—when facts of this grave nature only now and then crept out, as it were, it was no wonder that some cases were magnified, and others diminished, through the uncertainty of private accounts. In England, therefore, no man could be blamed for possessing but imperfect information on Indian affairs. Speaking to the best of his own knowledge, he must say that the discontents which took place at removing the troops from Calcutta to the south-east part of the frontier—the grumbling of the army, in short (a laugh)—might have sufficiently informed the Governor-general of the necessities of the army, and might have taught him the duty of relieving them. Formerly, when the native troops passed our Indian frontier, they were paid double full batta; but that allowance had been subsequently pared down, first to Lucknow, then to Cawnpore, then to Benares, and so on, until it was reduced to mere necessities. Perhaps the house was aware, that in order to enable the sepoy to move their baggage and their families with facility, they used to be accom-

modated with the necessary cattle on easy terms. They had bullocks and coolies for this purpose; the fact being, that for every single soldier in an Indian army there were about ten followers, which, indeed, was in some sort necessary. It was impossible in that climate for sepoys or any other troops to carry behind them the same quantity of baggage that soldiers carried in other countries. When the troops were ordered to march from Barrackpore, upon the south-east frontier, dividing Hindoostan from the Burman empire, the Government at Calcutta were apprized of the wants of the sepoys, in respect to these necessary and accustomed accommodations. But Government had purchased up every sort of carriage previously; and if even, as it was said, the sepoy regiments had each of them 5,000 rupees for the purchase of these articles, there were in fact hardly any to be bought (hear, from Mr. Wynn). So little did the rt. hon. gent. know about India (a laugh), that he (Mr. Hume) was willing to rest his case upon the fact that no carriages were to be had in India, even for money, without the assistance of the English civil functionaries, a statement in which every person acquainted with India would bear him out. Nothing could be more grievous to the sepoys, than the withholding such assistance. Formerly the commander of marching troops used to send to the kutwal, or head man of the village, for coolies and bullocks; but this practice having been found to be oppressive, the system was very properly altered, and the agents of Government now provided the means of transport. The neglect, on Lord Amherst's part, to secure such a provision, was another argument to show his entire ignorance of the wants of an Indian army (hear, hear). At the time of the Mahratta war, so different a feeling pervaded the native troops, from that which had been manifested on the late unhappy occasion, that for every vacancy in the forces, they had at least fifty candidates among the natives (hear, hear): it was not then thought necessary to invite, as he was sorry to perceive had been the case under Lord Amherst's government, by promises and rewards. There was then nothing like desertion heard of, but the greatest eagerness to serve was testified on every side. It was urged, in mitigation of the severe example lately made, that only eleven out of sixty mutineers were hanged: but were the house aware of the effect that so ignominious a punishment would produce on the native troops? The Bengal infantry was composed principally of Brahmins—men of as high and delicate a sense of honour as composed the ranks of any army. Of those who escaped the gallows, many were exposed in chains upon the public roads; a punishment calculated to have a worse effect on the feelings of the native population than any other that could, by possibility, have been devised. To clear up these matters, in some degree, he wished to be furnished with the instructions which the Court of Directors sent out to Lord Hastings, in 1814 and 1815, respecting the re-modelling of the army. Lord Hastings refrained from carrying those orders into effect; but he appointed a committee of military officers and civilians to inquire into, and report upon, every office that it was proposed to alter, and every allowance that was to be regulated anew. After receiving the various reports in 1816-1817, Lord Hastings drew up that important document which he was so anxious to see laid

on the table of that house, and dispatched it to England. His lordship therein first stated his own opinion on the subject of the instructions of the Court of Directors; he then availed himself of the best opinions that the military and the civil services in India afforded, and concluded by declaring that he could not set upon the instructions that had been sent out to him. The answer from the Court of Directors, which he believed was not at all in conformity with Lord Hastings' opinions, he was also anxious to inspect. He had understood that Lord Amherst went out determined to carry into effect the Directors' orders; which was itself a striking proof of Lord Amherst's wisdom for his office; for how could a Governor-general determine beforehand, what was fitting to be done or not? As he understood that the Court of Inquiry had not, at the last advice, terminated its investigations, he would of course dispense with so much of his original motion as was intended to call for the minutes of their proceedings; but as he could not imagine that any danger to our empire in India, could arise from the papers he wished to see, he should move for "a copy of the military despatch, transmitted by the Marquis of Hastings in the year 1819, to the secret committee of the Court of Directors, relative to the organization and allowances of the British army in India; also for a copy of the despatch of the Court of Directors to the Government of India, dated in 1823, on the same subject; together with a copy of any despatches from India, in reply thereto, stating how far such orders and instructions of the Court of Directors had been carried into effect."

Mr. Wynn concurred in thinking that a very large discretion must be left to the Government in India, as to executing any orders from home. He was surprised that the same principle had not reminded the hon. gent. that an individual placed in a situation of such difficulty as the Governor-general, and armed with so large a discretion, was entitled to the confidence of his country, at least till he had an opportunity of meeting charges against him. Of the mutiny at Barrackpore he possessed no official account; that which he had was written only five days after the mutiny occurred; and before the Court of Inquiry had finished its investigations. Under these circumstances, it would be the height of injustice to lay any information on the subject before parliament, till Government should be in possession of more ample documents, and thereby be better enabled to meet the calumnious misrepresentations on this painful subject which had been circulated in private letters (hear, hear). None of the papers for which the hon. gent. moved could throw the least light upon the subject. The new regulations referred to were not likely to produce the bad effects apprehended by the hon. gent. On the contrary, they were likely to remedy many serious evils which had existed, hitherto, in the Indian army. He denied that the Indian Government had manifested inattention to the complaints of the sepoys. In a letter written by the commander-in-chief in India, it was expressly said, "that some dissatisfaction having been noticed to the commander-in-chief as prevailing among the sepoys, in consequence of a want of bullocks for baggage, an immediate order was issued to furnish them with bullocks;" and Sir Edward Paget ascertained, that those provided for the 47th regiment were actually within the lines at

the then (hear). This was before the mutiny. He regretted the calamity that ensued in the destruction of so many lives—180, as he understood; not 480 to 500, as had been mentioned in private letters. The difficulty of arresting the destruction at the moment when the officer who commanded could have wished it, must be obvious, when it was recollected that the artillery was in action in the midst of a multitude. As to the execution of the eleven offenders—admitting the number to be correct—what means had we of impugning the decision of the court martial by whose sentence they suffered? Again, he differed from the hon. gent. as to the punishment that had been imposed on some of the guilty parties. The exposure in chains was more salutary than many military penalties that were but too common in India. With respect to Lord Amherst's policy, he thought it most unfair, in the absence of any positive evidence, to excite prejudice against that nobleman. He might have had very good reasons for adopting those measures which the hon. member had condemned. The hon. member had argued that the war was ill-timed. But were the Indian Government allowed to select their time? If provocation were offered, the Government must proceed to war. In the present case, Lord Amherst proceeded on the best opinions that could be had; he was particularly guided by the authority of a meritorious officer, Major Canning, who had since fallen a victim to the climate. He admitted that it would be better if war could be avoided. This country had already dominions enough in India—more, indeed, than could well be managed (hear). But, in his opinion, Lord Amherst was compelled to enter into the war (hear, hear). On this point he should say nothing more, as the hon. member had stated that he would introduce the subject in a more formal shape; when it was so brought before the House, he should be ready to meet all the arguments which the hon. member might advance. With respect to the abilities of Lord Amherst, he thought the hon. member had expressed too decided an opinion. When he was sent out, the Company's territories were in a state of profound peace. It was hoped that peace might have been preserved; and Lord Amherst appeared the most likely person who could be selected for ensuring the continuance of tranquillity. It was true, that during the administration of Lord Hastings, a war with the Burmese had been prevented. But how? By sending back the letter of the Burmese monarch, declaring that our Government conceived it to be a forgery. Such a plan might succeed once, but certainly not a second time. With respect to the destitution of the native officers of the 47th regiment; the opinion of every person with whom he had conversed on the subject was, that it was quite impossible the mutiny could have been carried on without the knowledge of the native officers, if they had performed their duty. If he stated his own opinion, he should say, that the native officers had been guilty of great neglect, and deserved the punishment of destitution. It appeared to him equally necessary, that they should be dismissed under the peculiar circumstances of the case, as it would have been, had they taken an active part in the mutiny (hear). The hon. member had adduced many reasons for the alleged unpopularity of Lord Amherst; but he really believed, that the

circumstance of Lord Amherst having placed the lady of a commodore above the ladies of the senior merchants, on the table of precedence, had excited more hatred, jealousy, and ill-feeling, against Lord Amherst, than any other of his acts since he became Governor-general (hear, hear).

Col. Davies condemned, in strong terms, the conduct which had been pursued towards the native officers. He had been informed by officers who had served in India, that a braver, a more loyal, or "better disposed set of men" did not exist, than those who composed our Indian army (hear). He trusted, that this business would be sifted to the bottom as soon as fresh advices were received:

Mr. Fremantle was astonished at the language of the gallant officer who had just sat down. As a military man, he ought to see the necessity of at once putting down a mutiny, under any circumstances. At that very moment, a military inquiry was going on for the investigation of the case. This, therefore, he considered a very unfit period for the promulgation of such statements. The mutiny, he would take leave to say, was not put down by force until every other means had been resorted to. This being the case, he was astonished to hear any gentleman blame the steps which had been taken to put it down, however severe they might seem to be. He contended, however, that the severity was not excessive. There was great danger, that disaffection, if a proper example were not made, would spread around. In a case of that sort, therefore, no time was to be lost; no opportunity could be allowed for a lengthened negotiation. It was complained, that a dreadful *fusillade* was opened on the mutineers, who were described as having been taken by surprise. But this was not correct. A full opportunity was given them to surrender, and when they despised that offer, they must have known what consequences would ensue. He denied the assertion of the hon. member (Mr. Hume), that the mutiny was occasioned by the withdrawing of any allowances from the native troops. In the despatch of November, 1823, not a word was said on the subject. The directions contained in that despatch applied to English officers; and in that arrangement the principle laid down by Lord Hastings was adopted generally. On some of the points mentioned by the noble marquis, the Court of Directors differed from him; some of them were deferred, but the general principle was adhered to. The great object of the directions sent out in 1823 was to place the troops at the different presidencies on the same footing, which, though very proper, was a difficult undertaking. The allowances were not taken from any officers, who were then receiving them, but were made to apply to those who afterwards entered the service. With respect to the alteration of batta, it referred to the removal of troops from different cantonments, and three years were allowed to elapse before the alteration was to take place. In no one instance had any remonstrances been made by the local Governments on account of this alteration; and therefore the mutiny could not be traced to that source. On the whole of the arrangement of 1823, the Company effected no saving. On the contrary, they added 200,000*l.* annually to their expenses. He conceived that such statements as had been made in the house that evening, by the hon.

member (Mr. Hume); and those who supported his motion, were calculated to have a very bad effect on the tranquillity of India (hear).

Col. Baillie said, that the Indian army was as loyal and gallant an army as any in the world. But in all armies, disaffection would sometimes appear. He recollected that 30 years ago a mutiny broke out in a regiment of those troops, which was commanded by one of the most gallant and humane officers in our service. He, however, found it necessary to have recourse to force; and that mutiny was put down in a manner fully as calamitous as that which the hon. member (Mr. Hume) had described. The 15th regiment was for ever excluded from the list of the Company's force. Some of the mutineers were brought to a court-martial; a part of them were capitally punished; and many others were punished, in degree according to their guilt. Some of them, on expressing their contrition, were admitted into the service again; and the same result might, perhaps, occur in this instance. From a knowledge of the Indian army during 30 years, he believed that a mutiny could not be brought to a head in that army without the knowledge of the native officers (hear); and therefore he looked upon the officers, in this instance, to have been conniving, at least, at the conduct of those who were placed under them (hear). The native officers were connected with each other by the nearest degrees of blood. Many of the junior officers were children of men who had served 30 or 40 years in the Indian army; and it was impossible to conceive that a mutiny could be in progress without their knowing something of the matter. The hon. member (Mr. Hume) was mistaken when he asserted that a great proportion of the native troops were Brahmans. The officers consisted of Rajpoots, and men of other high *castes*, but there were very few Brahmans amongst them. The information which had reached this country, as to the number of troops who had been cut off, was not to be depended on. It was exceedingly contradictory. He had received three or four letters from India, in one of which the number of men killed in the suppression of the mutiny was stated to be 580, in another 470, in a third, 360, and in a fourth, 130. As to the Governor-general, they ought to know something more about his conduct before they stigmatized his character or his measures.

Sir C. Forbes said, that he should treat the conduct of Lord Amherst with the utmost freedom. With respect to the alteration he had made in the table of precedence, he gave him credit for his conduct, as he did to the President of the Board of Control, who, he believed, had supported him in giving a certain degree of precedence to the Lady of Commodore Hayes. With respect to the mutiny, how, he would ask, had it originated? The troops were ordered, at a day's notice, to march from Muttra to Barrackpore, a distance of 1,000 miles, to join the British army (hear). He knew this from a letter which was written before the mutiny broke out. This march was ordered in the monsoon season—an unhealthy period of the year. They were ordered to fall into the ranks with their arms and accoutrements: their knapsacks, in particular, were directed to be fastened on. They declined this. They said, "We are not coolies; we will not degrade ourselves by carrying our cooking utensils on our backs." It was this circumstance which gave rise to the

ill-feeling amongst the troops, which at last broke out into open mutiny. If the public press in India had been at all free, this event would not have happened (hear). He was not prepared to say that unrestricted freedom of the press there, would, under existing circumstances, be proper. But he certainly did wish it to be redeemed from its present state, which was one of slavish degradation (hear). He had received a letter from a lady (a laugh) on the present state of India, part of which he would read to the house. His hon. friend (Mr. Hume) had, it appeared, received letters from civil, military, medical, and commercial characters, on this subject; but the letter he was about to read, and it was a very sensible one, was from the lady of a gallant officer, who was with the army at Rangoon. The writer said—"Lord Amherst must have enough on his mind at this moment (a laugh). Certainly it is a most nervous and critical time for every one of us (a laugh). The public prints will have told you of the mutiny at Barrackpore before you receive this. The 47th regiment has been struck off the army-list in consequence. The artillery and two European regiments were brought out against the mutineers; and it is hoped that Sir E. Paget's decided conduct will have a good effect. Yet the feeling of discontent is apprehended to have spread widely through the native troops; and there is no knowing whether it may not show itself somewhere else, where there are no European troops to put it down" (hear, hear). The letter went on to complain of that economy which had curtailed the native troops of their accustomed allowances. He concurred with the gallant officer (Col. Davies) that the mutineers ought not to have been pursued after they had taken to flight. The artillery might be necessary; but the pursuit was cruel, and needless. The hon. bart. sat down by declaring, that at no former period had India been in so perilous a situation as at present. Lord Amherst's friends could not do him a greater kindness than by soliciting his recall; nor could the house do the country a greater service than by assenting to it.

The Chancellor of the Exchequer said, that the present debate had led to some extraordinary assertions with respect to public officers. The conduct of Lord Amherst or Sir Edward Paget had nothing to do with the motion. The motion was for a military despatch—not of Sir Edward Paget—not of the year 1824—no; but a military despatch of the Marquis of Hastings in the year 1819. With some ingenuity, but very little fairness, the hon. member thought he had connected his attack upon Lord Amherst with this despatch. It was a document which referred to the allowances of the Bengal army at the date. But the hon. member forgot, or perhaps was not aware, that the paper did not bring his observations within the record; for it concerned allowances of the European officers only. When hon. gentlemen impugned the conduct of such men as Lord Amherst, it was surprising they had not courage to call upon the house for a vote, instead of throwing out charges, in a way which precluded the possibility of their being answered (hear, hear). How could Lord Amherst or Sir Edward Paget defend themselves against attacks like those? For his part he knew Lord Amherst personally; but he would not, on such an occasion, utter one word in his defence (hear, hear). He did not think that it would be just to Lord Amherst or to Sir Edward

Paget to attempt to answer them (hear, hear). Let the hon. member (Mr. Hume) call on the house for censure, and both the individuals whom he attacked would find abundance of defenders, and of able ones; but unless he could connect his recent observations with the despatch of the Marquis of Hastings in 1819—and he defied him to do it—he had treated Lord Amherst unfairly.

Mr. *Atell* said, that with regard to the Burmese war, upon which many observations had been made, all the papers were already upon the table. As to the late mutiny, a court of inquiry was sitting upon the circumstances connected with it; and he trusted, that until that court reported, the house would suspend its opinion.

Mr. *Watts* was surprised at the charge against his hon. friend (Mr. Hume) of sliding into discussions on the general affairs of India, on the present occasion. Nothing was more usual in that house than the introduction of matter collateral with the subject of the motion. Here, however, the discussion complained of was intimately connected with the papers moved for, and he was only astonished that so many weeks of the session had elapsed before the subject was brought forward. With regard to the state of India he agreed with his hon. friend and should support the motion.

Mr. *Hume* replied. If he had brought forward a specific motion against Lord Amherst, hon. gent. would have said "Give us the official documents before you ask us to condemn him." Now that he called for the official documents, he was told that they could not be granted, because they were wanted as ground of attack against an individual who was not present to defend himself. They were already in possession of a few meagre details, and why were they refused a full disclosure if there were no reluctance on the part of Government to meet the question? He held in his hand a Gazette, printed under the authority of the Government of India, out of which he could condemn them upon their own showing. He had also a circular addressed to the editors of newspapers, desiring them, in the name of the Government, not to notice the conduct of the 47th regiment. He had done his duty in bringing the question before the house; it might have been done in a better manner, but it was his duty, and he had heard no valid reason for opposing the measure.

The house divided—For the resolution, 15—Against it, 58—Majority, 43.

### Deccan Prize Money.

TUESDAY, JUNE 28.—Mr. *Hume* presented a petition from Col. Fitz-Simon, complaining of delay in the distribution of the Deccan prize-money, and praying for inquiry. It set forth: That Col. Fitz-Simon was an officer in the Deccan army, during the war against the Pindarrees and the Mahratta princes, in 1817 and 1818: That, in the course of the successful operations of that war, great booty was captured from the enemy: That, in 1821, after the close of hostilities, certain officers were appointed by Sir Thos. Hislop, the commander in chief, to ascertain and enforce the claims of the army upon this booty: That, after a long litigation between the East India Company and the army, the Lords of the Treasury recommended to the Crown that the booty (with a certain exception) should "belong to the divisions of the

Deccan army engaged in the respective operations in which it was captured." That the Duke of Wellington and the Right Hon. Charles Arbuthnot were appointed trustees for its distribution—which had not yet been made: That the trustees had refused all communication with the general prize-agent and law-agent of the army in England, since Oct. 1823; which, in conjunction with certain reports relative to arrangements having been entered into that the army should receive from the Directors, in compensation of their claims (admitted, as petitioners had heard, to have been realized to the amount of 700,000*l.*) a sum wholly inadequate to meet them; and, from the consideration that no just distribution could be effected without a free correspondence on the part of the trustees with the army-agents, owing to the great variety in the claims of the captors, had produced a deep alarm in the claimants: That the delay, which had already occurred, had proved most injurious to many of the claimants, and more especially to such as had since become widows and orphans, under circumstances frequently of much distress: Wherefore, &c.

The *Chancellor of the Exchequer* explained some circumstances which excepted this booty from the general law of prize. An appeal to the Lords of the Treasury had in consequence become necessary; the prize-money having vested in the Crown, although ordered for distribution amongst the captors. This appeal had produced delay, beyond the usual time. The rt. hon. gent. eulogized the assiduity of the Duke of Wellington and Mr. Arbuthnot, to whom the Treasury had referred the business, and who had undertaken it gratuitously, without any other interest in the issue than that of doing justice to the parties. If such charges were attended to, it would not be easy in future to find gentlemen willing to undertake a similar task. It was not till the 1st of June that the parties interested in the property had furnished the list of claimants, upon which alone any distribution could take place.

Dr. *Lushington* said that there had never been an instance in which the distribution of prize-money had been so conducted. No sooner were the Duke of Wellington and Mr. Arbuthnot appointed trustees, than they took the steps best calculated to cause delay. In all other cases, trustees of prize-money had kept up constant communication with the claimants. They had no right to decline it in this case. The parties had great reason to complain of the contempt and disregard shown to them by the Duke, whose conduct, especially in a letter sent by him, in answer, to Sir Thomas Hislop, one of the chief claimants, was contrary to all rule and precedent. That letter, the learned gent. observed, was an insult to the parties. He knew the facts of this case, having advised professionally on the business. He put it to ministers if there were not at one time an intention of appointing the son of Mr. Arbuthnot as agent; and if that intention had not been laid aside on discovery of the young gentleman's legal incapacity to discharge that duty.—He trusted the house would inquire into the business.

The *Chancellor of the Exchequer* regretted that Mr. Arbuthnot was absent from his place, by reason of indisposition; he would otherwise have explained satisfactorily all the topics to which allusion had been made. The son of Mr. Arbuthnot was never appointed an agent in this case. The trustees were empowered to appoint

an agent, and at one time, Mr. Arbuthnot had intended to appoint his son; but the appointment never took place. It was unjust to impute any thing to Mr. Arbuthnot for having once entertained that intention.

Dr. Lushington had not uttered a single word which he did not believe to be true. The rt. hon. gent. was quite mistaken about the right of the trustees to name their agent. The appointment of an agent in such a case was regulated by act of parliament, and the party appointed must answer the requisitions of the act.

The *Attorney-General* contradicted the learned member's statement. The property was originally in the Crown, and being relinquished in favour of the army, the Crown had undoubtedly the right of appointing its own officers for distributing it. The delay was owing to no fault on the part of the trustees, but to the complexity of the business.

Mr. *Hume* thought it strange that the trustees should have refused to communicate with the agents for the captors. He should move, in the course of the day or to-morrow, for accounts of the different sums paid into the treasury on this account, in order to see where the property was, and to ascertain its total amount.

The petition was ordered to be printed.

FRIDAY, JULY 1.—Col. *Lushington* presented a petition from four officers of rank in the East Indian Army, interested in the distribution of the Deccan prize-money. The petitioners stated their satisfaction at the conduct of the trustees, and prayed that the proceedings might not be interfered with by the house. The hon. member concurred with the petitioners, and thought the claims of the army, in many respects, so extravagant, as to operate to the prevention of a speedy settlement of the business. The army had set forth an unsubstantial demand of 2,000,000*l.* and they had, moreover, claimed the value of all the towns and palaces which had been captured by the British forces, and which had afterwards been given up to the native princes. As well, in his opinion, might the army of Waterloo claim the value of the Tulleries, which had been given up to the Bourbons after the capture of Paris.

The *Chancellor of the Exchequer* was glad to hear the expressions of the petitioners. The trustees had been severely treated. They knew well what obloquy would attend the discharge of the duty they had voluntarily undertaken, from the extravagant expectations entertained by both officers and men, as to the amount of the booty. Other men would have declined the responsibility, and the Duke of Wellington had been advised to that effect; but he was above every private consideration, where there was any prospect of achieving a public good. With a magnanimity not surprising in him, he considered that no man in the service being better acquainted with that army, and the circumstance of the capture, no man was better qualified for the task. The trustees from first to last had met with nothing but aspersions, which he took that opportunity of denouncing as factious and unfounded.

Dr. *Lushington*, notwithstanding the warmth of the rt. hon. gent. persisted in his opinion with regard to the conduct of the trustees. He was surprised at this zeal in justifying the noble duke. It would look as if the petition had been got up in consequence of what took place a few nights ago, with a view of enabling the rt. hon. gent. to deliver this extraordinary defence. The

petition emanated from a part of that army which had called upon its Commander in chief to make the representation which the petitioners now ventured to condemn. What was the information upon which these petitioners proceeded in reprobating their Commander in chief? Did they know any thing of the difficulties which impeded the adjustment and distribution of the prize-money? If they did, how came it that they had not imparted information so desirable for the case? He repeated what he had said with respect to the conduct of the trustees, and added that if they did not alter their determination, and communicate with the army agent and solicitor, great injustice would be done to the whole body of the captors.

Sir *H. Hardinge* complained of the misstatements against the Duke of Wellington. Sir T. Hialop had not delivered the list of claimants till the 5th of June. So far the delay was attributable to Sir T. Hialop. The Duke of Wellington and Mr. Arbuthnot had laboured indefatigably in the business. He was sorry that he was not in the house on a previous evening, when the learned civilian took occasion to stigmatize as "insolent," a written answer given by the Duke of Wellington. It was easy for gentlemen to utter expressions with respect to others who were of too high dignity to notice them, which they would not venture to use to the members of this house, or at any rate could not use them without incurring a sharp reply. He did not wish to curtail the liberty of speech which any member might think proper to claim; but it was difficult for a friend of that noble person to listen to such language without retorting his own words upon the member who ventured to use it.

On a call to order by Lord Folkestone,

Mr. *Caning* said, that the situation of his gallant friend was particularly hard. He had risen to defend a noble friend from an attack which had been made in his absence, on the presentation of a petition of which no regular notice had been given, and he was met by the forms of the house. Had his gallant friend possessed a little more of parliamentary tactics, he might have effected all that he wanted without interruption. He might have said, "I have read somewhere that expressions were used by somebody towards the Duke of Wellington," and he might have gone on to make his comments at pleasure.

Sir *H. Hardinge* continued. As the practice of the house allowed the calumnies to go abroad in the newspapers, he ought to have an opportunity of answering them. The imputation of Mr. Arbuthnot's intending to appoint his son, who was called a minor, as his agent, was false and calumnious. Mr. Arbuthnot's youngest son was 26 years of age. He had taken the opinion of the law officers upon the right of appointing his son, and he was informed that there would be nothing illegal in it. Such a system of clamour and calumny excited against men engaged in an arduous business, was highly to be deprecated.

Mr. *Hume* was surprised at the extraordinary vehemence of the gallant officer and the Chancellor of the Exchequer. With regard to the petition he had presented on a former evening, it was not delivered without notice, as the Secy. for Foreign Affairs was pleased to assert. No notice could be given to the Duke of Wellington and Mr. Arbuthnot; but the Chancellor of the Exchequer was sufficiently forewarned as being

the properest person to receive that information. He wondered at the exaggerations attributed to that petition. In what part of it did the petitioners lay claim to the price of public buildings, or to the share of two millions of money? If the petition were dispassionately referred to, it would be seen that 700,000l. was the sum spoken of, as admitted to be realized. The petitioner demanded information which the trustees unwarrantably refused.

Sir H. Hardinge said, that the Duke of Wellington never had refused information; on the contrary, he had informed Sir Thomas Hlop that he or any of his staff might inspect the papers at the office; but he would not let them be shown to agents and attorneys. With regard to the expressions he had attributed to the learned civilian, he observed, that, whilst the house allowed its discussions to be circulated, no fault should be found with the reporters, who only printed the words, as they had not been retracted by the member to whom they were imputed.

The Speaker here interposed.—The gallant member, he said, was proceeding in a disorderly course. It was contrary to order to refer to expressions used in a former debate; but to refer to representations of a former debate, which could not be circulated without the intervention of practices in themselves disorderly, was still less to be tolerated. No member would be allowed to comment on expressions used in a previous debate; leaving to the party accused the onus of exculpating himself from such expressions.

Sir H. Hardinge admitted that he might have been out of order; but intimated some expectation that the learned gent. would qualify or retract some parts of his former speech.

Mr. Brougham complained of the gallant member's conduct, in demanding a retraction of those expressions, without condescending to inquire of his learned friend whether the expressions had been used by him or not. Good God! Was he or any man to come down and let out his fury on any gentleman who might be suspected of speaking disrespectfully of the Duke of Wellington, because he was a friend of that nobleman, without one preliminary inquiry, and in a way which must of necessity preclude the chance of explanation? What man of spirit would stoop to explain imputations, even if they were wrong, under those circumstances? Suppose he had a similar grudge against the gallant officer, or any other gentleman, and were to begin his expostulation thus—"You infamous fellow, you have said that which is calumnious of my friend," (symptoms of dissent from Sir H. Hardinge and the Chancellor of the Exchequer). He did not mean to say that the gallant officer had used those expressions; he was only putting a case to show that in asking for explanation, there was a way of doing it which might lead to explanation; there was another way which totally precluded it. He must tell the gallant officer that neither the high station of the Duke of Wellington, nor the vehemence used in defending him by any member in that house, could ever deter either himself or others from expressing their opinions frankly upon his public conduct. The Duke of Wellington and Mr. Arbuthnot might be very amiable characters in private; but they were in this case public men,

clothed with a public trust, in which public money was concerned; and as honest stewards to the public, he and every one in that house was bound to scrutinize their conduct. He proceeded to express his opinion upon certain parts of that conduct. He had been consulted professionally on the part of those who were interested in the booty. He had advised the claimants that the appointment of young Arbuthnot as agent would have been illegal; and that by the provisions of the Prize Act, a penalty of 500l. would have been incurred by every single transaction of his in that appointment. And then, what followed? The trustees, who evinced a profound ignorance of the law, proposed to shew certain documents to Col. Wood, who alone could act, without becoming liable to the penalties, on condition that he did not show them to the lawyers! And the ground of this prohibition was still more offensive—"because there was too great a disposition in certain quarters to entertain law proceedings." Now their love for litigation was a vulgar, gross, and every-day charge against lawyers (hear, hear, and laughter from the ministerial benches)—and the rt. hon. gent., perhaps, in this particular, wished to be counted among the gross and vulgar crowd out of doors. Such a charge was utterly groundless. Four out of every five opinions given by lawyers were against the case submitted to them. He himself frequently told clients that they had no case, to keep them out of court, though in principle they might have a very good case, but not one which, in the present state of our courts, would repay the expense and trouble of a suit. But now who were the seven lawyers who had been thus attacked? He admitted, that for himself and his learned friend near him (Dr. Lushington), nothing could be said: they were lawyers without redemption. But Dr. Jenner was joined with them in their opinion—a man as little of a Whig as any gentleman opposite—a very worthy lawyer, with an excellent Tory spirit. Next was Sir W. Adams, a King's counsel—a man of no politics at all, and a friend to the Duke of Wellington; and Mr. Heald, who of all men in the profession could least be suspected of such practices. Then who else was there? Oh! what if a judge were among them? What if Lord Wellington, as a Cabinet minister, had since joined in recommending this person to the Crown as a fit associate among the twelve judges of the land. Mr. Gazelee had joined them in their opinion. Then there was Mr. William Harrison, the known familiar of the Treasury. Really, people who live in glass houses should beware of throwing stones. This very nobleman, who seemed so very touchy, and who had been so touchily defended by the gallant officer, did not scruple to make this attack upon the profession and characters of so many respectable lawyers. In allusion to a certain pamphlet which had been published on this affair, and which the gallant officer had qualified as infamous and libellous, he observed that his opinion of the pamphlet was somewhat different; but if libel it were, the courts of law were open to the noble duke, as well as to any other British subject. In proceeding at law, the noble duke would have the benefit of the talents of the Attorney-General, to whom of course would be opposed some learned friends of his, the case would be submitted to the decision of twelve honest men, and would by them be much more satisfactorily

decided than by coming down to that house and speaking big words, which proved nothing either way.

Mr. Peel thought that his gallant friend was mistaken, in the first instance, in attributing the language alluded to to the learned gent.; but he thought he had heard that learned gent. use very extraordinary language. His gallant friend's declaration, that he was not aware of Col. Lushington's intention to present a petition this evening, must establish, to every body's satisfaction, that whatever his gallant friend had said, was said without premeditation. If, moreover, he had uttered any thing that could be deemed offensive, the Speaker would have interposed to order; but this he had only done when his gallant friend referred to what had passed on a former debate. He concluded by repeating the eulogies on Mr. Arbuthnot and the Duke of Wellington.

Mr. Canning had been endeavouring to recollect as distinctly as possible the expressions which had fallen from the learned gent. on a former night, and had been this evening commented on by his gallant friend. He could not recollect with certainty what the learned gent. said: but in regard to the application which had been made by his gallant friend of the word "insult" or "insolence," it appeared to him, that the word, if used, was meant to apply not to any individual, but to that letter of which so much had been said, and that passage in it wherein it now appeared that a clerical error had been committed. It was printed "the said William Harrison," instead of "the said Mr. William Harrison;" but in the original manuscript letter, it seemed, the word "Mr." was inserted. Whilst he agreed that it was no part of the learned member's duty to deny a charge preferred on the authority of a newspaper, he hoped the learned gent. would not feel the same objection to stating whether he (Mr. Canning) was right in his impression of what had been said on the occasion alluded to?

Dr. Lushington said, that after what had fallen from the rt. hon. gent. he felt justified in stating what he would sooner have parted with his life than have stated in answer to the wanton and unguarded attack of the hon. member for Durham (hear, hear). That hon. member had commented on his conduct while he held in his hands the original copy of the letter which carried on its face the explanation of his (Dr. L.'s) expressions. He should have betrayed his duty as a member of parliament—he should have been destitute of the courage of a man—he should have been utterly unworthy to sit in that house, if he had condescended to an explanation so demanded (hear, hear). Irritated for a moment he certainly might have been; intimidated he never could be (hear, hear). Now, as to what the rt. hon. gent. had said in describing his language on a former night, to the best of his recollection he had stated it accurately, except as to one word. The word "insolence" had never passed his lips; he should have considered it, under any circumstances, as an improper term. But, knowing that the paper was signed by Mr. Harrison, a learned and eminent counsel, the law adviser of the Treasury, and the brother of a Secretary of a Board at which Mr. Arbuthnot sat, he might possibly have characterized the letter as an insulting letter (hear). The house could not call upon him to say more, than that he had been mistaken upon a matter about

which any individual would have been mistaken who had not seen the original manuscript (hear, hear).

Sir Henry Hardinge begged to repeat, that the particular word which he complained of he thought to be an improper one; and if it had been employed, as he conceived it had been by the learned gent. he still thought it very improper (hear).

Sir R. Fergusson could not allow this conversation to close without observing that his gallant friend (Sir H. Hardinge) had expressed himself in a tone of warmth not very usual, and, as he thought, a little beyond the forms of that house. The cause of the error had been satisfactorily explained, and he hoped his gallant friend would say he was sorry for his warmth (hear, hear). He assured his gallant friend that he would be the last man to advise him to do any thing which would be discreditable to him either as a soldier or as a member of that house, but he declared upon his honour that were the gallant officer his own brother, he would recommend him to pursue a similar course (loud cries of hear, hear).

Sir H. Hardinge said, that if any expression used by him was offensive or unparliamentary, he was ready to explain in the fullest manner. He admitted that his manner was vehement, but he declared with his rt. hon. friend (Mr. Peel) that he was not conscious of having used, or intended any expression offensive to the hon. and learned gent. (hear, hear). He could not at the same time admit, that the use of the name "Wm. Harrison," instead of the name "Mr. Wm. Harrison," was sufficient to justify either the word "insolence" or "insolent."

The Speaker said, that he rose with the purpose of bearing his testimony that nothing unparliamentary had fallen from the gallant officer. Had his impression been different, he should have been unpardonable for neglecting to interrupt. The gallant officer just expressed his willingness to retract any thing unparliamentary that might have fallen from him; and by so doing he had done himself the highest honour, and no more than justice to the house.

TUESDAY, JULY 5.—Mr. Abercrombie rose to present a petition from a very gallant and distinguished officer, Sir Evan John Murray M'Gregor, Bart., one of the captors entitled in distribution to the Deccan prize money. The petitioner was one of His Majesty's aides-de-camp, and Deputy Adjutant-General of the King's troops in the East Indies; and in that capacity attached to the army commanded by Sir T. Hislop. He was also a member of a prize committee assembled at the head-quarters of that Lieut. General in the field, and of another prize committee subsequently appointed at Madras; and in consequence of these circumstances he had been enabled to assist in the preparation of the statements of the army of the Deccan. The same facts, combined with that of his having been agent under a power of attorney for Sir T. Hislop, while Sir Thomas was absent on the continent, had necessarily occasioned frequent intercourse between himself and the counsel and agents for the Deccan army. The petitioner referred to the following passage in the petition presented by Col. Lushington, on Friday, July 1:—"That upon the wisdom and justice of the trustees, the petitioners chiefly rely for the recovery of all that



can be obtained of this booty, for its continued preservation from needless and expensive litigation, and for the earliest practicable distribution of the prize, according to the usages of the service, and of the conditions of His Majesty's grant." Sir Evan M'Gregor, in reference to this passage, prayed "that the said petitioners may be required to state the grounds upon which their apprehensions, touching needless and expensive litigation, are founded, and to whom they are applicable; and that if it shall turn out that they are intended to animadvert on the conduct of the counsel, law and prize agents for the army of the Deccan, he was ready to verify the allegations of this his petition at the bar of the house." Now it was to be observed, that in the petition of the four officers, there was a distinct insinuation of a general desire on the part of the agents, or of the attorney and the other legal persons employed on behalf of the claimants, to raise up unnecessary litigation in this business (hear, hear). In making that imputation, the parties had named no individual: let them only fix upon the name of an individual and he would doubtless be ready, when called upon, to meet their charge. The four officers came forward to vindicate the Duke of Wellington from the blame which he was thought to have incurred in this affair, as if that could be done by preferring unfounded charges against others. As men of honour, they are bound to speak out, and name the parties they referred to. Believing this to be the petition of an honest and conscientious man, acting merely on the desire to make good the motives of his own conduct and that of the legal advisers of the captors generally, he moved to bring up the petition.

Col. Lushington, on behalf of the four gallant gentlemen, the petitioners on a former evening, disclaimed any imputation on their part, upon the professional gentleman who had been alluded to. The object of those petitioners was simply to express their confidence in the management of the Duke of Wellington.

Sir H. Hardinge thought it competent to the gallant officers, whose petition was presented on a former evening, to express themselves in the way they had done. As to the disposition to go to law, imputed to some of the parties, he thought it might easily be traced in these proceedings. Some of them had desired powers of attorney to be sent over for the receipt of prize; others had gone so far as to claim that the value of a palace which the Deccan army had destroyed should be included in the prize-fund, and others had even gone the length of proposing that a claim for compensation should be reserved, in the year 1832, at the expiration of the Company's charter, for the territories of a Rajah whom they had captured and dispossessed. There seemed to be an extraordinary sensitiveness on the part of the learned gent. (Mr. Brougham), to any imputation on the lawyers. He must, however, take leave to say, that in this instance the gentlemen of the long robe had already had quite enough of this plunder (hear, hear, and laughter). Their bills amounted to 14,000*l.* or upwards (hear, hear), whilst the expenses of the Duke of Wellington and Mr. Arbuthnot, for two years hard work as trustees, had not exceeded 150*l.* (hear). He thought that such proceedings proved the disposition to go to law, which had been suggested. Whilst other papers were demanded, he should like to see

the law-bills printed; he should like to see how much Mr. Harrison and the other lawyers had shared of the Deccan booty. He then went into a defence of the trustees, observing that whenever the Duke had conversed with Sir T. Hinlop, or any other gentleman, on this business, the matter of such conversations had always found its way into the newspapers, and that in a most garbled way; so that at last his Grace had declined any personal communication with Sir Thomas. He fully acquitted Sir T. Hinlop of any participation in these proceedings; but he thought the Duke of Wellington had acted rightly, especially as he had said to all the officers, at the same time, "Come as often as you please—turn over every account—examine as much as you please; but I will not, after what has happened, hold any further personal communications on this subject." As to the pamphlets which had been published on this subject, the duke despised them as much as any man; but he was not the less determined, that if any part of the case were printed, that all should be printed together.

Mr. Brougham could assure the gallant officer that he did not mean to vindicate the law, or the lawyers, from the gallant officer's attacks. Bad people there undoubtedly were, and he was sorry for it, in every profession—some, he feared, who plundered in black coats as others did in red, (hear). The gallant officer seemed, however, to be under misapprehension as to the nature of the charge against the Duke of Wellington, which was, in fact, a charge of gross ignorance as to the law of prize, as applicable to the case of the claimants. It could not be supposed that any other objection had entered into the minds of the lawyers, who represented the petitioning claimants. As to the passage complained of in the petition of the four officers, it evidently alluded to those lawyers. Now, what was the fact? The estimated expense of these proceedings—for not a bill had been yet delivered—was, it was true, 14,000*l.*; but let it not be forgotten that the professional agents employed, had recovered upwards of 300,000*l.*, leaving a balance of at least 286,000*l.* on the account (hear, hear). This was certainly expensive litigation: but let it be observed, that the Marquis of Hastings's army, and another force, were claimants for the same booty; and these the Deccan army's counsel had beaten out of the field by a judgment of the Privy Council. He was often in courts of law himself, but it was as an advocate; if he should ever have the misfortune of standing there as a client (a laugh), he should like exceedingly well, whether plaintiff or defendant, to obtain for such a rate of expense as large a return. With the exception of the petitioners, all the parties acquiesced in the arrangements which had been entered into on behalf of the Deccan army. Who were the petitioners? Were they a large and important body? No,—they consisted of only four officers. One of them, Col. Noble, had been for the three last weeks in the Highlands of Scotland. That gentleman, therefore, must have authorized his name to be placed to the petition by letter, or else he must have given his consent to that proceeding before he left town four weeks ago. If the petition had been prepared for three weeks, he could not understand why it had not been presented before. Had the gallant officer who presented it been beating up for recruits? If so, he con-

doled with him on the scanty supply which the Deccan army had furnished (a laugh). He (Mr. Brougham) wished all the papers to be produced; he knew who would then make the worst figure, and he was quite sure it would not be Mr. Atcheson, and the rest of the lawyers and agents.

Col. Lushington avowed that he had signed Col. Noble's name to the petition, but he felt fully authorized to do so, having conversed with his gallant friend before he left town, and ascertained his sentiments on the subject.

Mr. Brougham was surprised that any person, in consequence of some conversation which he had had with another, should imagine that he possessed a *carte blanche*, to sign the name of that other to a petition, containing charges against individuals. He thought such a practice inconsistent with the privilege of the house.

Mr. Canning agreed, that it was carrying informality too far to sign a person's name to a petition merely on the warrant of opinions expressed in general conversation. He went on to observe that there were two modes of settling a dispute, one, by an unexpensive arbitration, and the other by process of law. He thought the former mode the best (hear). He thought it hard that a person could not express that opinion without its being said of him that he brought forward charges against individuals connected with the legal profession. He knew no reason why the gentlemen of that profession should feel sore because it was supposed that they liked employment. If it were said that physicians liked to get patients, clergymen the cure of souls, a lawyer clients—was this to be considered as *scandalum magnatum* against those professions? He remembered that not long since a member of that house stated that he settled in half an hour a difference which had been the subject of litigation for many years. Such a story in the present temper of the learned gent. might be construed into an attack on lawyers generally. It was too much to expect that he should not express his opinion in favour of arbitration against litigation, because there happened to be more than the usual proportion of lawyers on the opposite benches. Indeed he never recollected an opposition so entirely composed of lawyers (a laugh). It was the disposition of every profession to get business, and if that were the case at present with respect to the bar, it was the first time that honourable and magnificent profession had appeared in so disinterested a light.

Mr. Abercrombie said, he objected to the petition presented on a former evening, not because it attacked the legal profession generally, but because it advanced specific charges against individuals.

Mr. Brougham said, that the gallant officer might speak as long as he liked in defence of the Duke of Wellington, and use as many hard words as he pleased, but it would do no good. The question should be decided not on the unsworn statements of the gallant officer, but on the sworn evidence of competent witnesses.

The petition was then read, and ordered to lie on the table.

### Interest on Loans in India.

LORDS, FRIDAY, JUNE 17.—The Marquis of Hastings rose to introduce a bill to explain the 36th clause of the 13th Geo. III., which limited the rate of interest on loans made in India to

12 per cent. His bill was rendered necessary by the construction lately put upon this clause by the law officers of the Crown, in contradiction of the system which had been acted on for half a century in India. According to this opinion the clause in question extended to the whole of India—even to the dominions of independent princes, over whom the East India Company exercised no control. The preamble of the act showed the real meaning of the clause. It was made penal to take a higher rate than 12 per cent., because, under the plea of interest, presents had sometimes been corruptly taken; but the framers of the bill never dreamed of restraining British subjects from taking any rate of interest in the dominions of an independent prince. If this could be supposed, the greatest confusion would ensue: for how could acts done in foreign independent states be made cognizable in his Majesty's courts in India? The act, on this construction, imposed a penalty which the Courts had no means of inflicting. He then proceeded to show that the construction of the law-officers of the Crown was inconsistent with subsequent regulations of the Supreme Government of India. These regulations which were registered in the Supreme Court of Justice, and were annually laid before parliament, had the force of law. By one of them, promulgated in 1793, the rate of interest was advanced from 25 to 37 per cent. Another, in 1803, extended it to 40. These regulations, together with an uninterrupted practice of half a century, clearly showed the opinion of the Directors and the Indian Government, as to the limits imposed as the rate of interest by the provisions of the act. On these grounds he submitted a bill to amend and explain the 13th Geo. III. He should, hereafter, move that the opinion of the judges be taken to ascertain whether this bill effectually explained the meaning of the clause of the act relative to the rate of interest.

The bill was read a first time.

WEDNESDAY, JUNE 22.—The Marquis of Hastings moved the second reading of his bill. He proceeded to recapitulate the substance of his former speech, observing that the judges and several noble lords were now in the house, who were absent on the last occasion.—To obviate all uncertainty, he proposed, in the present bill, to declare, in express terms, that the clause in the 13th Geo. III. did not extend to persons within the territories of independent sovereigns. In the greater part of all former statutes the words "East Indies" were exclusively applied to the possessions of the Company. And as to the 37th Geo. III. referred to in the papers on the table, that statute only prohibited the lending money to the native princes, with the sanction of the governor-general. This sanction would not have been reserved, if the possible necessity of supplying the native sovereigns with loans had not been contemplated by the legislature; and the act would have been nugatory, if the interest on such loans had been restricted to 12 per cent.—a rate at which no lenders would be found. He then moved the second reading, and put a question to the judges, whether the bill introduced did truly set forth the intent and meaning of the clause in the 13th Geo. III.

The bill was read a second time, after which the judges withdrew, and the house adjourned.

**MONDAY, JUNE 27.**—Lord Chief Justice *Best* delivered the opinion of the judges in favour of the bill. The act for restricting the rate of interest to 12 per cent. was a penal statute, and therefore to be construed strictly. By its literal interpretation it was only to be enforced within the possessions of the Company. It could not regulate the transactions of borrowers or lenders in the dominions of the native princes. Such borrowers must apply for protection to their own Government, and not to that of the Company. Besides, by the act, the offence of usury was to be punished where it was committed—but what jurisdiction had we in the dominions of the native princes? In this construction of the law they were supported by two decisions of the Supreme Court of Bengal.

The bill was ordered for committal to-morrow.

## FINANCE AND TRADE.

*The Budget.*

**COMMONS, MONDAY, FEB. 28.**—The house resolved itself into a committee of ways and means.

*The Chancellor of the Exchequer:* Although he could not forbear to congratulate the house upon the auspicious circumstances under which they were called upon to review the state of the finances, he could truly say that he did not do so for the mere purpose of making a flourish, nor with any desire to induce the country to indulge in an unreasonable exultation as to the present, or an extravagant anticipation as to the future. But although he had no such object in view, and although there might be in this country, and unquestionably were in other countries, persons who, either jealous of the eminence of our station, or ignorant of the causes which had placed us there, might represent our present prosperity as the forerunner of our ruin, and might wish to represent us as having merely hastened

—“numerosa parare

*Excelsæ turris tabulata, unde altior emet*

*Causæ, et impulsæ præcepit immane ruinæ;*” he nevertheless was of opinion, that if upon a fair review of our situation there should appear to be nothing hollow in its foundation, artificial in its superstructure, or flimsy in its general result, they might safely venture to contemplate with instructive admiration the harmony of its proportions and the solidity of its basis. He said, with instructive admiration, because he was satisfied that no one could calmly and philosophically consider it, without seeing portrayed before him in the most legible characters, the course of policy which it was our duty to pursue. If we wished to consolidate our own resources, and to promote the general happiness of mankind. Under these impressions then, and wishing gentlemen to keep these considerations in view in applying themselves to the present business, he should proceed to the details of the question before the house. In doing this, he should first bring under the notice of the committee a comparison of the actual revenue of the last year, with the estimate of it which he laid before the house at the commencement of the last session. He assumed at that time, that at the expiration of 1824 there would be a clear surplus of about 1,050,000*l.*; and upon that assumption, and carrying its views forward to the end of the year 1827, the house

proceeded to make a reduction in our taxes to the amount of no less than 1,260,000*l.*, of which sum he calculated that the revenue would in that year lose about one half, or 630,000*l.*; so that if, at the end of the year, the surplus had been 420,000*l.*, his estimate would have been realised, and no expectation disappointed. It was, however, with no ordinary satisfaction that he had to state, that notwithstanding the reduction then made, and notwithstanding that a more immediate effect was given to that reduction, and greater loss consequently sustained than had originally been contemplated, the actual surplus of the year was 1,437,744*l.*—greatly exceeding not only what would have been sufficient to realise his estimate, but exceeding even that surplus which he had thought himself authorized to expect, independent of any subsequent diminution of the taxes (hear, hear).—He would now advert to some details of the case, and make some observations upon the different branches of the revenue in which this increase had taken place. And first as to the customs. The receipt under this head, he had estimated at 11,550,000*l.*, and having afterwards repealed customs duties to the amount of at least 900,000*l.*, of which he anticipated that 450,000*l.* would be lost to the revenue in 1824, it followed that his calculations would have been verified if the actual receipt had been 11,100,000*l.*: in addition, however, to the loss sustained by the immediate effect of reduced duty, the net receipt of the customs was still further lowered by the payment of no less than 480,000*l.* upon the stock in hand of silk, in order to give more immediate efficacy to the change of duty and system in regard to that article: and yet, in spite of these two circumstances, it appeared that the net produce of the customs for 1824 was no less than 11,337,000*l.* Now to what was this increase to be ascribed? The proximate cause was, doubtless, the increased capacity of the people of this country to consume the produce of other countries, aided and invigorated by the reciprocal facility which our consumption of foreign articles gave to other nations in the extended use of the products of our own industry. But it might be said that this increase was accidental; that it had arisen out of some special circumstances of the time, or from some peculiarity in our situation. Surely that was not the case. Was it not occasioned, on the contrary, by something the very reverse of what was ephemeral and peculiar, by something inherent in the nature and connected with the very essence of human society? The demonstrated tendency of population to increase would alone be sufficient, in a great measure, to account for it: but independent of that cause, there was a principle in the constitution of social man which led nations to open their arms to each other, and to establish new and closer connexions by ministering to mutual convenience; a principle which created new wants, stimulated new desires, sought for new enjoyments, and, by the beneficence of providence, contributed to the general happiness of mankind. This principle might, it was true, be impeded by war and its calamities; it might be diverted by accident from its natural channel; it might be counteracted (as we well knew in this country) by the improvidence of mistaken legislation; but it was always alive, always in motion, and had a perpetual tendency to go forward; and when they reflected upon the facility which was given to its operation by

the recent discoveries of modern science, and by the magical energies of the steam-engine, who could doubt that its expansion was progressive, and its effect permanent? It appeared to him, therefore, that it might safely be asserted, that the increase in this branch of the revenue was not the result of accident, or of a temporary combination of fortunate circumstances, and that he was not too sanguine when he took the produce of last year as the solid basis upon which he calculated the state of that branch of the revenue for years to come.—The next item of revenue was the excise, which was peculiarly important, both from its amount, and from its immediate connexion with the comforts of the people. In this branch, not only had the produce of last year surpassed that of the former, which itself exceeded the average of the three preceding years, but it had gone very far beyond what he had ventured to anticipate. The produce which he had anticipated was 25,625,000*l.*; the actual result was 26,768,000*l.* being an excess of 1,143,000*l.* This must be matter of sincere gratification to every one who felt an interest in the well being of his fellow-subjects; since he could state, that of almost every article contributing to the excise, there had been such an increased consumption, as to indicate, in the most unequivocal manner, the increasing ease, comfort, and happiness of the people. This would be shewn by a reference to a paper which he held in his hand, and which exhibited an increase upon the following articles, which he would read to the committee; viz.:—An increase upon auctions of 12 per cent.; strong beer, 15; table beer, 20; bricks, 40; tiles, 15; tallow candles, 9½; wax candles, 8; coffee, 2½; cocoa nuts, 6½; glass, 20; cyder and perry, 12; leather (tanned), 10; leather skins, 15; licences, 7; malt, 3; paper (1 and 2 class) 12½; paper (mill board), 15; pepper, 10; printed goods (calicoes) 24; stained paper, 20; hard soap, 7½; soft soap, 12½; British spirits, 66; foreign spirits, 25; stone bottles, 15; sweets, &c., 45; tea, 1½; tobacco and snuff, 3½; wine, 5; wrought plate, 15 per cent. He now came to the stamps. He estimated last year that they would produce 6,800,000*l.*; and he afterwards proposed a reduction of law stamps, which, at the rate of 200,000*l.* per ann., and commencing Oct. 10th, 1824, would have brought the receipt down to 6,750,000*l.*—½ only of the reduced duty being lost in that year. The real produce of the year had been 7,244,000*l.*, so that he had the satisfaction of knowing that we had obtained the benefit of cheap justice without making the sacrifice which we were prepared to encounter. The Post-office he took at 1,460,000*l.*; it brought 1,520,000*l.*; that increase being the natural consequence of increasing activity in the general business of the country. Upon the whole, he might say, that although there might have been some who feared at the time that he was risking too much, all must now admit that he kept within moderate bounds, and that he might safely venture to adopt the same principle in framing his present estimates.—He had now to state to the committee, his calculations for the present year, and the grounds on which they were formed. He assumed the produce of 1825, including every thing, at 56,445,370*l.* The expenditure would be 56,001,842*l.* including 5,486,654*l.* as sinking fund, which would give a clear surplus of 443,528*l.* He would proceed to examine the details. The Customs for 1825, he took at

11,300,000*l.*, and he would explain why he assumed an excess above the actual net produce of last year. Taking the last year's receipt as the basis of the present, he might add to it 50,000*l.*, which would be saved by the progressive diminution of certain bounties upon fish and linen; he might add also, 460,000*l.* being the amount of the repayment of the stock in hand of silk, which was merely a casual loss. These sums, then, would stand as follows:

Receipts of 1825 .....	£11,327,000
Diminution of bounties .....	50,000
Stock of silk in hand .....	460,000

£11,837,000

From this, however, he must deduct 410,000*l.* for the full operation of the reduction of duties last year, which would leave the produce at 11,427,000*l.*; but as he was anxious to keep within the mark, he would only estimate it at 11,350,000*l.*, retaining elbow room to the amount of 77,000*l.*—The estimate for the Excise he stated at 26,400,000*l.*; the produce of last year was 26,768,000*l.*, from which must be deducted 200,000*l.*, on account of the entire cessation of the salt duty, and 37,000*l.* on account of the further effect of last year's diminution of the duty on rum. The Stamps would, in all probability, produce 7,100,000*l.*, after allowing for a diminution of 150,000*l.* on account of the further effect of the repeal of the law stamp duty. The assessed and land taxes would not be less than 4,875,000*l.*, nor the Post-office than 1,500,000*l.*, being 20,000*l.* less than last year. The miscellaneous, including 100,000*l.* due under treaty from the Dutch Government, would be 750,000*l.*; and lastly, there would be received from the trustees of half pay and pensions, 4,470,370*l.* The whole, therefore, would stand as follows:—

Customs .....	£11,350,000
Excise .....	26,400,000
Stamps .....	7,100,000
Taxes .....	4,875,000
Post-office .....	1,500,000
Miscellaneous .....	750,000
Trustees of Half Pay .....	4,470,370

£56,445,370

Turning now to the expenditure of 1825, it would be found to amount to 56,001,842*l.* Of this, the first items constituted the permanent charge upon the consolidated fund; and he should here explain that the increase of the sinking fund beyond last year arose in great measure from the course adopted respecting the dissentient holders of 4 per cents. The stock standing in their names amounted to about 6,000,000*l.*; and as they were to be paid off by an issue of exchequer bills, which were to be subsequently discharged out of the sinking fund, the amount of their stock was transferred, at an interest of 3½ per cent., from their names to those of the commissioners for the reduction of the national debt, and the interest of the stock so transferred, became an addition to the sinking fund. The other items of expenditure arose from the annual supplies voted by parliament, and the two together would stand thus:—

Interest of Debt .....	£27,233,670
Ditto of Exchequer Bills .....	40,000
Civil List, &c. ....	2,060,000
Half Pay Annuity .....	2,900,000
Sinking Fund .....	5,486,654

£37,610,324

## SUPPLY.

Interest of Exchequer Bills £	£80,090
Army .....	7,911,751
Navy .....	5,983,126
Ordnance .....	1,376,641
Miscellaneous .....	2,300,000

Total Expenditure..... £56,001,842

It was unnecessary to trouble the committee with any detailed examination of this expenditure, further than to say, that a portion of the increased charge of the army arose from the expense which would be incurred this year by training the English and Scotch militia, and that the miscellaneous charge was increased by the necessity of paying no less than £50,000l. to the United States of America for certain negroes who left their masters and attached themselves to our forces during the late war. By the treaty of Ghent we were bound to pay for such negroes, and the amount to which he had referred was the result of a reference, under the provisions of that treaty, to the arbitration of the Emperor of Russia. Deducting, then, the total charge of 56,001,842l. from the total revenue of 56,445,370l., the net surplus would be, as before stated, 443,528l.; and if, following the course which was pursued last year, we cast our eyes forward to 1826 and 1827, a surplus might be expected of 864,676l. for 1826, and of 1,254,676l. for 1827. The latter surplus would derive its increase beyond the year immediately preceding it, from a diminution which he proposed to effect in the bounty upon the exportation of refined sugar. By the present law, the duty upon raw sugar varied according to its price; when the average price was below 47s. the duty was 27s. per cwt., and the duty was liable to a graduated scale of increase according as the average price might reach certain specified amounts. This was a very faulty system, first, because the additional duty (which was necessarily presumed to be paid by the consumer) attached when the price of the article was already high, and secondly, because the drawback upon the exportation of refined sugar was calculated upon the supposition that the duty upon the muscovado was invariably paid at the higher rate. Now, as he was willing to forego the contingent advantage of the ascending scale, and thought it desirable to fix the duty permanently at 27s., it seemed to follow as an obvious consequence, that the drawback should be modified accordingly; and this change of system would save to the revenue 3s. per cwt. in the drawback, and might be taken as a total saving of about 300,000l.: in the estimate, therefore, of the Customs for 1827, the first year in which the modification would be in operation, he assumed an addition to that amount. He need not press upon the committee the propriety of taking this course: the 3s. in question being a positive bounty, and not a mere drawback of duty actually paid, it clearly became the interest of foreign governments to impose an additional duty upon our refined sugar, equivalent to that bounty, and thus to put that revenue into their own pockets at our expense. At the same time he should be prepared to recommend to the committee a reduction of duty upon West India produce of different kinds to the full amount of the charge which would be favoured by this change of system. It thus appeared that the surplus of the years ending with 1827 would be as follows:—

Surplus of 1824 .....	£1,437,744
1825 .....	443,528
1826 .....	864,676
1827 .....	1,254,676
Total .....	£4,000,624

When he last year presented to the house a calculation of surplus founded upon the same principle, he asked, "What we were to do with it?" He repeated that question now, and he answered it as he did then, "We may do with it a great deal of good; and it is our duty to do it." He should submit a series of propositions to the house, which, he was satisfied, would be found eminently calculated to promote the general interests of the community, if those interests were considered in their more extended sense, as combining enlightened principles of policy with positive relief from fiscal pressure. He had three main objects in view:—1st. Increased facility of consumption at home, in conjunction with increased extension of commerce abroad; 2nd. A combination of the first principle with the restriction of smuggling; and 3rd. Some alleviation of the pressure of direct taxation. He mentioned direct taxation last, because he was convinced that the advantages which the country would derive from a steady attention to the two preceding objects, were ten thousand times greater than those which would result from giving a decided preference to the latter. He was well aware to what he exposed himself in making this statement; he had been repeatedly told that evening, that if he wished to acquire popularity, either for himself or the Government, the best way to obtain it would be to reduce the assessed taxes. But, although it would be folly to despise popularity, he would not seek it by consulting particular interests at the expense of the general good; and he was sure he should not deserve it if, for its sake, he could persuade himself to abandon clear, fixed, and important principles, which were useless if confined to theory, but eminently beneficial if reduced to practice. First, then, as to the extension of our intercourse with foreign nations. The house, he was happy to say, had gone along with him in promoting this great object, and he trusted that the country was by this time convinced of the good sense which dictated the policy of getting rid both of positive prohibitions and of prohibitory duties. Much had already been done upon this subject, but much remained to be done; and it was the intention of his rt. hon. friend (Mr. Huskisson) to take an early opportunity of submitting to the house a plan for reducing, within moderate and reasonable bounds, all the remaining prohibitory duties, and thus to strike as it were from our recollection all those errors and prejudices which had so long shackled the energies of our own commerce, and restricted the productive industry of the world. It would not be necessary for him now to go into detail upon this subject; but there was one particular article which was so important, and which had been so frequently alluded to in the present session, that he could not avoid to mention it. He alluded to foreign iron. The demand for iron in this country had risen of late to such a wonderful degree, that the produce of our own mines was unequal to meet it at any reasonable price; and this demand had not, he believed, been produced by any sudden or occasional cause; but it was the result of the increasing

prosperity of the world in general, which brought within the reach of increasing numbers, articles of iron manufacture which were essential to the convenience and the business of all classes of society. But such was the present high price of iron; that he was credibly informed, that orders of this description intended for Birmingham and Sheffield, had been transferred to cheaper markets on the continent, in the hopes that lowness of price might compensate for inferiority of workmanship. He would meet, therefore, the narrow and short-sighted policy, which would say "Let us use no iron but our own," by saying to the manufacturer, "Use all the iron you can get." With a view to give effect to this proposition, he would recommend that the present duty of 6l. 10s. per ton should be reduced to 1l. 10s.; and he was confident that whilst this measure would render essential service to all those employed in this description of manufacture, it would be found equally beneficial to those who produced the iron itself, and who were much too enlightened not to acquiesce in the policy which dictated the proposed reduction. As far as the revenue was concerned, he did not conceive that it would incur any loss, as the very high rate of the present duty operated in a great measure as a prohibition; but he thought it necessary to state in this place, that it was not proposed that the reduction should immediately apply to all countries from whence iron might be brought. One of the objects which the British Government had in view in diminishing duties upon foreign produce was, to set an example to other governments. There were some states which had manifested an unequivocal disposition to adopt a similar policy; but others did not as yet appear to have emancipated themselves from their former system; in truth, they might be said to be still heaping restriction upon restriction. He did not wonder at this, because he could not forget how long we were ourselves before we saw the error of our ways, and shook off our ancient trammels; but he thought, at the same time, that however anxious we might be to give to all countries the benefit of our example and our practice, we were not bound to do so indiscriminately, or to abstain from making distinctions in favour of those nations whose views and principles were conformable to our own. He did not, however, believe that there would long exist any ground for the practical application of this distinction, because he was willing to persuade himself, that what was sound in principle and beneficial in its result would sooner or later become the rule in the intercourse between nations, particularly when the whole world would see that what we professed to aim at in one year was not overturned by a contradictory practice in the next. He should now proceed to state the reduction which he proposed upon various other articles of foreign produce, the duties upon which, although not avowedly or really prohibitory, were nevertheless so high as to impede the consumption, and to press with considerable severity upon those who used them. The first of these articles was hemp. This, it was true, was not perhaps an item of very material importance in the general consumption of the country; but it affected very seriously one of the most valuable interests of the country—he meant our mercantile marine, an interest closely connected with the well-being of the country; whatever contributed to the maintenance of

that great fulcrum of our strength, deserved the favourable consideration of the house. With this view, therefore, he should propose the reduction of half the present duty upon hemp, at a loss to the revenue of about 100,000l.—The next item to which he would call the attention of the Committee was coffee, a matter of no small consequence in reference to our West Indian colonies. At present the duties upon coffee were as follow:—West India, 1s. per lb.; East India, 1s. 6d.; Foreign 2s. 6d. He did not mean to say that these rates of duty were very high, or that they pressed with severity upon the great mass of consumers in this country: it was nevertheless true that the consumption of coffee, particularly since the imposition of the last duty in 1819, had by no means kept pace with the increased population and ease of the country; from which it might reasonably be inferred that the high rate of duty had contributed not a little to curtail it. It was besides a matter of great importance to give every facility to the cultivation, in the West Indies, of every species of tropical produce as well as sugar; and, as it was well known, that the labour of cultivating coffee was much less severe than what was necessary for the production of sugar, he flattered himself that the increased consumption of coffee which he anticipated from this reduction, would in that respect be of much utility in that part of his Majesty's dominions. He proposed to extend this reduction to cocoa, and taking both articles together, the revenue would probably be diminished to the amount of 150,000l.—He came now to a matter which, in reference to the principle which he had just laid down, as to the effect of the high duty upon coffee in curtailing its consumption, had long occupied his attention, and had upon various occasions, during the last two years, been under the notice of the house. He alluded to the article of wine; and when upon former occasions he had been asked whether the Government contemplated any change respecting it, although he did not then feel himself enabled to take that subject in hand, he never argued against the principle of reduction, and could not shut his ears to the notorious fact, that the consumption of wine in the United Kingdom had not only not increased, but had in truth greatly fallen off. He might perhaps be told, that wine was a mere luxury, that the duties upon it fell exclusively upon those who were best able to pay them, and that the poorer classes of the community would derive no benefit from their diminution. He could not admit that these were conclusive objections; in some sense, it was true, wine might be considered as a luxury; but it should not be forgotten that it had medicinal virtues, and that in many diseases to which the poor were peculiarly liable, wine was recommended as essential to recovery; and surely as regarded the middle classes of society, it never could be maintained, that it was a matter of indifference to them whether wine were highly taxed or not, unless it were argued that there was no motive for facilitating to those classes the enjoyment of any thing beyond the bare necessities and comforts of life. Although, therefore, the more wealthy part of the community might derive the most immediate and extensive benefit from the proposed reduction, he hoped it would not be supposed that he was looking to their advantage alone, or that he founded his proposition upon any desire to relieve them at the expense

of others. The truth therefore being, that since the duty upon wine had been so high, the consumption had fallen off, and that the consequent means of other nations, producers of wine, to extend their commercial transactions with us, had been proportionably diminished, it would seem to follow as a necessary consequence, that an augmentation in the use of wine would give a new stimulus to many branches of trade. In the years 1801, 1802, and 1803, the duty on wine in Great Britain was as follows:—

French	1801	—	8s.	9d.	per gallon.
	1802	—	8	10	
	1803	—	8	10	

French	1801	—	6s.	5d.
	1802	—	6	6
	1803	—	6	6

The average consumption was:—

French wine	874,000 gallons.
Other wine	7,396,000

Now the present duty was 11s. 5½d. per gallon on French wine, and 7s. 7d. on other wine, and the consumption of 1824, after the lapse of more than twenty years, notwithstanding the great increase of our population and of our general opulence, had been so far from keeping pace with that increase, that it did not exceed 234,264 gallons of French wine, and 4,847, 976 gallons of other wine. Now, it was possible a reduction to the scale of 1801 might be sufficient to bring back the consumption to the rate of that period; but as it would be highly imprudent to reduce the duty at all, unless it were done effectually, he had thought it better to descend at once to 6s. on French and 4s. on other wine—a reduction of nearly half of the present amount, being at the rate of 1s. 3d. per bottle upon French wine, and 1s. within a fraction, upon all other foreign wine. In Ireland he could not venture to calculate upon an increase of consumption to the same amount, because he could not venture to reduce the duty to what it was in that part of the United Kingdom in the years before alluded to. But if the consumption of wine in Ireland amounted to two-thirds of the average of those years, and equalled that average in England and Scotland, the loss to the revenue under this head might be taken at £30,000!—The division of the subject to which he had now arrived, was one of peculiar importance. It referred not only to the principle of giving relief to the consumer, but to one of a higher order, and which was essentially connected with the morals and happiness of the people; he meant the prevention of smuggling. Smuggling he conceived to be one of the greatest domestic evils that could afflict a country. Its active instruments haunted us wherever we went; they hovered round our coast, they penetrated our harbours, they traversed the interior; they invaded the splendid palace of the noble, and the humble cottage of the poor: they offered their temptations in every quarter, and he feared that all classes of society yielded to the seduction. Surely this was an evil of tremendous magnitude; confounding all notions of right and wrong, and sapping with incessant and increasing power the very foundations upon which obedience to the law was built, it brought the law itself into disrepute, and the violation of it into universal credit. The progress of this mischief had been endeavoured to be checked by the most rigorous measures; they had sur-

rounded the coast with ships and guards as with a wall of brass; they had imposed penalty upon penalty, and inflicted punishment upon punishment, but all in vain. Why? Because the cause of the evil was the law, and the alteration of the law had not yet been tried. When he proposed to make a great change in the distillery law of Ireland and Scotland, there were not wanting persons who exclaimed, "What! reduce the duty of spirits? Make all the people drunk? For God's sake abstain from so fatal a measure." The measure was nevertheless taken; and so far from any evil having resulted from the step, tranquillity, order, and harmony, had superseded the disturbances, the confusion, and the ill-blood which arose from illicit distillation. Why, then, should the system of which experience had proved the advantage not be tried in England? He did not mean to say, that they should proceed with precipitation and rashness, or that all could be done at once; on the contrary, when he had been pressed upon this subject upon former occasions, he had always said, "Do not push me too hard; do not ride a willing horse to death." But he would unhesitatingly apply this principle to the Distillery Law of England, which in truth required revision, not merely on its own account, but also on account of the degree to which it was affected by the change which had taken place in the other portions of the United Kingdom; because, although the reduction of duty upon spirits in Ireland and Scotland had undoubtedly been attended with the most beneficial results, it had nevertheless produced indirectly a corresponding evil in England. The illicit distiller had been driven out of the north of Scotland; but with what, he feared, he was about to call *characteristic* sagacity, he had established himself in the south, and carried on from thence no inconsiderable traffic in smuggled whisky across the border. He did not mean to say, that this sort of smuggling affected the revenue in any very serious degree, but in point of morality it had all those prejudicial and dangerous qualities which he had ascribed to an evasion of revenue laws. They *must*, therefore, deal with it immediately, if they wished to complete the improvement in this branch of the fiscal economy; and he proposed, in the first instance, to equalize the system under which the Distillery might be carried on throughout the United Kingdom, by which means numberless restrictions would be removed from the trade, and the intercourse between different parts of the country indiscriminately opened. As the law stood, the distiller must begin by making a raw spirit, which he could not sell for consumption in that form, but which he must consign to the rectifier, in whose hands it underwent a fresh distillation; and being mixed with various compounds, was then distributed to the consumers under the denomination of gin; whiskey, which was the pure extract from grain, unrectified and uncompounded, could not be sold for consumption. Now, he did not mean to say that the people of this country would necessarily like whiskey better than gin; but he did mean to say, that it was but reasonable that they should be at liberty to drink it if they choose. The hon. member for Aberdeen (Mr. Hume) admitted last year, that amongst various offences of the same kind to which he pleaded guilty, he had constantly in his house an ample supply of genuine smuggled Scotch whiskey. He (the Chancellor

of the Exchequer) congratulated him, therefore, especially upon the change proposed; for, hereafter he would be enabled to indulge in this favourite beverage, without being exposed to those unpleasant liabilities which doubtless had given him many a qualm, by mixing his chisley with the vapid drawback of an impending penalty. But this change of system would not be sufficient to effect the object which he (the Chancellor of the Exchequer) had in view: it must be accompanied with a considerable reduction of the duty upon spirits. At the same time, he did not think it would be expedient—at least in the first instance—to reduce the rate so low as that which was charged in Ireland and Scotland; the cases were very dissimilar, and we had not here the same difficulties to contend with, that existed in those parts of the United Kingdom. There the mischief arose from the extensive manufacture of illicit spirits in the remote districts of the country; here such a course would be much less practicable. Although, therefore, it was absolutely necessary in Ireland and Scotland to bring down the duty from 5s. 6d. to 2s., in order, by an effectual blow, to extinguish the tremendous evil which was producing such dreadful consequences, we were not obliged to go so far in respect to England. Upon this principle, then, he proposed that the duty upon British spirits, which was now 10s. 6d., should hereafter be 5s. per gallon, upon all spirits made exclusively from malt, and 6s. upon all made from mixture of malt and raw grain. He foresaw one objection to his proposition; it was, that, in consequence of the cheapening of spirits, an impulse would be given to the habit of drunkenness. He should not discuss that subject now; but were there more foundation for such a fear than he believed to exist, he must observe that we had but a choice of difficulties; that smuggling was an evil of immense magnitude, the cause of excessive and varied immorality, and the parent of innumerable crimes; and that some such measure as he had suggested was the only mode of effectually putting it down.—In addition to this change in the duty upon British spirits, he proposed also a reduction upon rum and other colonial spirits from their present rate of 10s. 6d. per gallon to 8s. It was but just to retain this difference of 2s. between British and colonial spirits, because the manufacturer of the latter was not liable to that increased charge upon his raw material, which affected barley and malt from the restrictive operation of the corn laws. An equality of duty, therefore, would act with great injustice both upon the grower of English barley and the maker of English spirits. The distiller from sugar, however, in the colonies, would, under the new system, have the advantage of bringing the raw spirit which he extracted from his sugar, into consumption here, either by selling it in its raw state or by having it converted into gin through the medium of the rectifier and compounder. He was not prepared at present to admit rum itself to be converted into gin. Hereafter it might be expedient to permit it: but as it would be dangerous to the revenue if too many transformations of this article were allowed at once, he was desirous of waiting till he could see how the new system would work, and how far its extension could be safely carried. Without troubling the committee with lengthened details, he thought he might state the annual loss to the revenue upon the heads to which he had just adverted, at 750,000l. It would greatly exceed

that sum, unless he counted upon the success of the plan in the diminution of smuggling and the consequent displacement of illicit whiskey, brandy, and gin.—There was another article, small indeed in its amount, and local in its consumption, but which in his view was of great importance; he meant cider. When he stated that in those parts of the country where cider was manufactured, that the law was in a state of perpetual violation, that the gaols were filled with those whom the Excise had felt it to be their duty to prosecute, that a very large proportion of the prisoners were females, and that the consequences were seriously prejudicial to the morals of very many country villages in those districts, it would be granted this matter was more than of mere local importance. Reducing, then, the duty upon cider from 30s. to 10s., the revenue would lose about 20,000l. per annum; and six counties would be relieved from the enormous evils arising from smuggling. Hitherto he had confined himself to the subject of indirect taxation; and after the many petitions which had been presented to the house, and which had been strenuously supported by various gentlemen, upon the subject of the assessed taxes, he felt it necessary to state why he conceived that those petitioners ought not to complain if he had taken a course different from that which they desired. Surely he might say, without disregard of their wishes, that their interests were wrapped up in the interests of the community at large, and that a great grievance could not be removed from society, with conferring a positive, although perhaps an indirect, advantage upon each separate class. Amongst the various objections to the Assessed Taxes, none seemed more worthy of consideration than the petty annoyances which attended the collection of them; and he was anxious to remove, as far as possible, all those that might be said to press upon sore places. Some of these related to points in which evasion was easy, the correction of evasion embarrassing, and its punishment more vexatious than effectual. Such were the first objects of his attention. The first item was the tax on four wheel carriages, drawn by one poney. It produced but 867l. a year, and might as well be repealed altogether. The next was a tax very seldom paid; he meant that upon occasional waiters; he proposed to knock that off altogether, at a loss to the revenue of 1343l. Coach-makers' licences, amounting to 354l.; and the tax upon carriages sold by commission, which, as they also paid the auction duty, was a very unreasonable tax, and amounted only to 3391l. would be repealed: as would the duty on mules, employed in some of the mining districts of the country in carrying ore. There was also a tax upon horses which pressed with considerable severity upon the small farmer; he meant in cases where he was in the habit of occasionally letting out his team for various purposes of business: at many a slack period of the year this was a great advantage to him, but was now clogged with a tax because such horses were not considered as being strictly agricultural horses, and consequently not entitled to exemption from duty; this exemption he proposed to grant them, giving up thereby not more than 4000l. He saw no reason for retaining another small tax applicable to farmers, namely, that upon husbandry labourers who might occasionally have the charge of a horse; they were not, in fact,



male servants in the taxable sense of the word, as they neither performed the ordinary duties of domestic servants, nor wore a livery; but they were liable to a duty which produced about 2000*l*. The next item was that of taxed carts, which brought in about 19,000*l*. The entire removal of this would be a great relief to many persons, and its exaction caused more surcharges and trouble than almost any tax of the same description. He now came to houses and windows. As the law stood, if a person quitted a house after the commencement of the year, he still remained charged for the whole year; and the alteration which he proposed to make (at a loss of 5000*l*.) was, that he should be chargeable hereafter for that part of the year only, during which he should have occupied the house. A sum of 4000*l*. per annum was also received upon houses occupied throughout the year by one person, solely for the purpose of taking care of the house; this he proposed to repeal; and he would deal in the same way with another item of 1000*l*. per annum, arising from farm houses, out of lease, but occupied by a labourer: such farm houses were already exempt, provided that part of the house occupied by the labourer was entirely separated from the rest of the building: but as this condition was very onerous and inconvenient, by compelling the landlord to incur the expense of making the partition when his farm was out of lease, and of pulling it down again the moment he got a tenant, he proposed to remove it. In dairy farms also, no more than one window was allowed to be exempt for the dairy and cheese room, which compelled the farmer to use the same place for both purposes: but by giving up 1000*l*. a-year, he could allow one window to be exempt in each such room.—The next point was one of more extensive importance: and he trusted that much satisfaction might be given respecting it. The number of houses now charged with the House Tax was 527,649; the tax was assessed according to the assumed rent-value of the house; and 1*s*. 6*d*. in the pound was the assessment upon all houses rated under 10*l*. This class of houses he proposed to exempt altogether from this impost; and by thus sacrificing about 90,000*l*. of annual revenue, no less than 171,705 houses would hereafter be entirely free from any charge upon this head. Windows constituted the next and the last item upon his list. He could not pretend to offer any thing there in the way of relief to the wealthy, or even to the middle classes of society; but he could give it effectually to those who were poorer, and upon whom the window tax pressed with by far the greatest severity. There were in all 973,867 persons assessed to it; and it was charged at an increasing rate, according to the number of windows. A large proportion of these contributors occupied houses having no more than seven windows; and if by sacrificing about 145,000*l*. those contributors were relieved from the window tax, 635,936 persons would be set free at once from the tax.

—The result of the whole was thus:—

Reduction upon Hemp. ....	£100,000
Ditto Coffee. ....	150,000
Ditto Wine. ....	230,000
Ditto British Spirit } and Rum. }	750,000
Ditto Cider. ....	20,000
Ditto Assessed Taxes. ....	276,000
Total .....	£1,526,000

Of this he calculated we might lose, during the present year, about 650,000*l*.; so that it was clear that the total surplus of this and the two ensuing years, which he had already stated at upwards of 4,000,000*l*. would be amply sufficient to meet the presumed reductions.—Thus then he proposed to give additional facilities to foreign commerce and internal consumption; thus he struck a blow at that giant the smuggler; thus he exempted from the weight of direct taxation those who were the least able to bear it: and with these propositions in his hand, he should not fear to go into any assembly of his countrymen at any time and in any place, and to claim, not be hoped with overweening confidence or arrogant presumption, but with an honest consciousness of having endeavoured to do the state some service—respectfully and firmly to claim their approbation and support (loud cheering).\*

Mr. *Maberly* hoped that the committee would not, by admitting the propriety of many of the general principles upon which the *rt. hon. gent.* had founded his able statement, be considered as pledging themselves to his details, and particularly where his practice was at variance with the system which he advocated. He begged also not to be considered as admitting that the *rt. hon. gent.*'s disposal of the surplus revenue was the best which could be assigned for it. The increase of revenue he had always anticipated as the natural consequence of the introduction of the sound commercial principles which his Majesty's Government had lately acted upon; and which, by giving fairer play to the industry of the people, had produced as a necessary consequence, an augmentation of the national revenue. He should reserve his further observations until the resolutions were printed.

The *Chancellor of the Exchequer* requested *hon. gent.*s to bear in mind, that the resolutions could not be printed until after the report was brought up. All he proposed to urge in the committee that night, were the resolutions relating to wine, coffee, hemp, and such part of the assessed taxes as he had referred to: this arrangement would facilitate the progress of the necessary bills respecting these articles.

Mr. *Bright* complained in strong terms of the comparative inattention afforded to the West India interests, and the necessity of some further time for consideration, before the committee decided upon the *rt. hon. gent.*'s statement. Parliament had seriously interfered with the value of West India property and interests, without giving the owners any thing like a fair equivalent. By the proposed reduction of bounties upon sugar, the great refining trade would be lost; and by the reduction of the duty upon home made spirits, the consumption of rum would be lessened in the British market. It was last year affected considerably by the introduction of Irish and Scotch whiskey, and some hopes were held out, that in the present year the West India interests would be better considered; and yet what was now proposed?—merely to reduce the rum-duty 2*s*. a gallon, while, at the same time, the reduction in home spirits was to be 5*s*. a gallon. When they wanted to repress the smuggling trade, why not begin upon tea and tobacco, notoriously the two great articles

\* This speech is chiefly published from the Report published by Hatchard, London, 1823.

of contraband consumption? If they reduced the tax upon tobacco one half, the revenue would not suffer, and smuggling would be diminished by two-thirds of its present extent. It was said, that in the coffee reduction there was a concession of 150,000*l.* to the colonial interests. He admitted the importance of this reduction to the negro population, but denied its being a proper equivalent for the injuries which had been generally inflicted on the West India trade.

Mr. *Hobhouse* merely rose to touch upon one or two points. In the first place, he thought it would have been better to have equalized the wine duties, instead of fixing them in the proportion proposed; and in the second, he was quite sure the country would not be satisfied with the inadequate reduction of the assessed taxes. The effect of that upon windows now proposed would be to induce people to deform their small houses to bring the number of windows within the *rt. hon. gent.*'s plan; and by restricting the circulation of air, to impair the health of their families.

Mr. *Hart Davis* complained strongly that the tobacco duties were not reduced; they now amounted to 1,200 per cent. upon the original value of the article. He had expected a reduction of one half at least of these duties. Notwithstanding the very great export from America, and extensive consumption in Ireland, the revenue in this article was not improved, which could only be attributed to the increase of smuggling.

Mr. *Alderman Thompson* was surprised that the tobacco and brandy duties were not further reduced, for the better prevention of smuggling. He was satisfied with the reduction of duties on hemp and iron: though he did not anticipate so great a reduction in the duty of the latter, yet he, who was largely interested in that trade, was not afraid of foreign competition (*hear, hear*). He was a ready advocate of liberal commercial principles (*hear, hear*).

Mr. *Hume* concurred in the opinion that they would never make an impression upon the smuggling traffic, and reduce the expense of the preventive service, until they diminished the tobacco and brandy duties. As to the general commercial principles upon which the *rt. hon. gent.* had acted, he gave him the fullest credit for their utility and liberality, and only wished them to be carried further. He must also say, that the promise or expectation held out to the West India interests had not been fairly redeemed. It was a breach of faith to the colonies not to put them upon a comparative footing with the general home trade.

Mr. *Huskisson* was glad to hear his *hon. friend* (Mr. *Alderman Thompson*) say, in allusion to the iron trade, that he had no fear of the foreign competitor. The duties on iron were certainly not necessary for the British miner, and they tended to keep up a great fluctuation in the market-price. With respect to the West India interests, it was impossible to retain the sugar bounties, which had no other operation than to enable the foreign consumer to purchase it at a cheaper rate, without benefitting the colonies. The reduction on the coffee duties would, he had no doubt, be found very beneficial. He remembered that when he had been the means of reducing the coffee duty from 2*s.* 4*d.* a pound to 4*d.* only, the larger consumption immediately augmented the previous amount of revenue (*hear, hear*). This

was not only an advantage to the country, but also to the West India interests, who must, besides, sensibly feel the reduction in rum from 10*s.* 6*d.* to 8*s.* the gallon. In answer to the observation with respect to the duties on tobacco, however he might be disposed to coincide, he must remind *hon. members* of the caution given his *rt. hon. friend*—not to ride a willing horse to death. Did the committee consider what would be the effect of reducing, as had been proposed, the duties on coals, half the duty on malt, and two-thirds of the duty on tobacco—the last of which amounted to three millions of itself? Must not the country feel deep alarm at a sudden reduction of the revenue to that amount? He concurred in the propriety of reducing the tobacco duties, so that the revenue might be benefited by the increased consumption to the amount which would be lost by lessening the duties. But *hon. gents.* should remember, that the country only possessed a given power of consumption; and nothing could be so visionary as to suppose that Government might with safety at once, remit all the duties upon every article which had a tendency to encourage smuggling or to check consumption.

Mr. *Ellis* applauded the candor and good spirit of the *rt. hon. gent.* in carrying forward his improvements. He could not but find some fault, however, with the neglect of the West India interests in the reduction of the 2*s.* on rum at the time of reducing 5*s.* on British spirits. He disapproved of the restrictive system; he would let in the sugars of the Mauritius as freely as those of Jamaica. The monopoly could never save the British colonist from a competition in the general continental market, so long as the British West India islands produced an ounce beyond our own consumption; and that competition must determine the price of his commodity. He would open the British market to the sugars of all nations. He asserted it without dread of contradiction, that the British refiner could not succeed like the refiners of Hamburg and other places, because they could not, like the latter, mingle the rich Havannah sugars with the poorer articles from our own colonies. He recommended a more vigorous reform in the Government charges and burthen on ships, and articles of ship-building, trading to our ports, both here and in the colonies.

Mr. *Whitmore* wished to see the duty on East-India sugar placed on an equality with other sugar. He was sure we must look to the East Indies for a great extension of our commerce, and that it was impossible this measure, which was one of justice, could long be delayed. He wished, before the duty on wines had been so much reduced, that it had been equalized on all wines. There was a system of monopoly existing in Portugal, which would completely deceive the calculations of the Chancellor of the Exchequer. There was a more absurd monopoly of Port wine than any other monopoly he knew of. This was equally injurious to England and Portugal, and he hoped some endeavours would be made to get rid of it.

The Chancellor of the Exchequer wished to give a reason why he did not conceive rum entitled to an equal reduction with British spirits. The price of grain, from the natural operation of the corn laws, put the distiller under a necessity of paying a price for his malt beyond that which he would have to pay if there were no

such restrictions. In rum, the first material was not subject to that specific charge. The prime cost of the malt spirit was so much more than rum, that the latter article could more easily bear 8s. per gallon than the former could 5s. He professed himself, however, to be in no wise wedded to his own opinion, nor did he offer these propositions as if they could admit of no qualification. On the contrary, he courted the animadversions of hon. members on the introduction of the resolutions which it would be his duty to submit to the house.

The house then agreed to several resolutions in conformity with the propositions of the Chancellor of the Exchequer.

### *Assessed Taxes.*

THURSDAY, MARCH 3.—On the presentation of a petition from Southwark, praying for the repeal of the taxes on houses and windows,

Mr. Brougham said, that he thought it would be much better at once to remove the Assessed Taxes than to take away those which pressed indirectly upon the public; but this was objected to, because it would have the effect of diminishing the patronage of Government. It was time that the people should be relieved from the visits of the tax-gatherer—a sort of personage whose presence was always productive of vexation and annoyance. Of what use was it to take off a portion of the tax on any article when the reduction was met by a nearly correspondent rise on the part of the vendor? On the morning following the night on which the Chancellor of the Exchequer had announced his intention of taking off 20l. per hogshead from the duties on French claret, he happened to be at Guildhall, and before twelve o'clock on that day he heard that the honest class of his Majesty's subjects who were employed in selling wine to the rest of his Majesty's subjects, had raised the price of the same wine 10l. per hogshead. He hoped that the Legislature would be induced, therefore, to pause before they carried into effect the reduction which had been proposed, and which was beneficial only to wine-sellers; and substitute, instead of it, some relief which would be universally felt.

Mr. Maberly rose to bring forward a motion for the repeal of the Assessed Taxes. To judge by the state of the house, (which was remarkably thin at that moment), a stranger, he said, would almost imagine that some subject of very slight interest was to be discussed; of this, however, he was certain, that any person who would go from house to house throughout the country, would find nine voices out of every ten in favour of the proposal which he was bringing forward. Concurring with the principles laid down by the hon. Chancellor of the Exchequer on the subjects of foreign policy and free trade, still he was far from satisfied with the relief which the present plan of that rt. hon. gent. afforded. With respect, for example, to the article of hemp: there was a reduction on that commodity, but not a sufficient one. By bringing the raw article to England at a low price, our own artisans would derive a profit from the manufacture of it; but the duty, which had been 30, still remained at 15 per cent. Again, for the reduction upon coffee—the article was ill-selected. There were a hundred petitions upon the table to repeal the duty on twenty other

commodities, and not one to repeal the duty on coffee. The next item was wine—here was a reduction, but not of the kind which the country wanted. An attempt had been made to call wine an article of necessity. Something or other had been hinted about “the sick.” He left that argument to those who thought they could make any thing of it; he considered wine to be merely an article of luxury, and an article the repeal of duty on which would not benefit the labouring classes a farthing. While necessities were out of men's reach, it was not a time to repeal a tax upon superfluities. The rt. hon. gent. talked of the benefits of foreign trade; an increased consumption at home causing fresh demands abroad for our own produce; but did he really think—for the question of increased consumption came to that—that, because he had reduced the duty on wine one half, every family in England, where they had drunk one bottle, would now drink two? British spirits formed another item among the reductions; and then there came the plea of smuggling. But the present measure, at best, was but doing things by halves; for the reduction was not sufficient to prevent smuggling; if any thing could be done, it must be by an equalization of duties throughout the United Kingdom. But his main objection to the measure was, there were commodities out of number, a reduction of the duties upon which would have gone as far to diminish smuggling as this reduction upon spirits; and yet the rt. hon. gent. elected to cheapen that particular article the use of which tended pre-eminently to demoralize and destroy our population. If this were getting rid of smuggling, which he denied, it was certainly meeting one evil by the introduction of another. In the repeal of the duty on cider, he concurred; in many counties that would be a convenience to the lower classes. Upon iron, as upon hemp, he did not think that the reduction had gone far enough; and he repeated that a reduction on tea, tobacco, soap, candles, silk, and a great variety of other articles, would have been more useful than the reductions which had been granted upon wine and British spirits. But he now came to the assessed taxes, which formed the main object of his motion; and he had no hesitation in saying that, with what had been done upon the subject, the country was entirely dissatisfied. The main desire was to get rid of the house and window taxes: for the rest of the duties, he was chiefly anxious about them, inasmuch as an entire repeal, by getting rid of the commission-ship, would save the country just 300,000l. a-year. On the propriety of repealing direct taxes in preference to indirect ones, there could not be a question; the rt. hon. gent. in his speech on the budget two years since, had admitted it. By getting rid of the assessed taxes, we got rid of all the machinery connected with them—of all that system of visitation and vexation which people thought more of than of the money which they paid, and, for the means of doing it, the rt. hon. gent.—apart from all surplus—had a fund instantly at command for it, the sinking-fund. He was scarcely less anxious to get rid of the sinking-fund than for the repeal of the assessed taxes, so completely did he regard it as a delusion. With all our sinking-fund, 5,000,000l. a-year, the national debt was greater now than it had been in the year 1815. With the assistance of that most incomprehensible measure, the half-pay consolidation

scheme, we had increased our debt, since 1816, by 12,000,000l. The late Mr. Ricardo had said truly that he would trust no government with a sinking-fund—that it would always be seized by the minister whenever he wanted it; in fact, it had been so; it had been seized by the rt. hon. gent. He did not mean to deny that the charge upon our debt had been diminished. Though its nominal amount was greater, the reduction of the four and five per cents had lessened the cost to the country. But how had this saving been effected—by the operation of the sinking-fund?—Not a jot. It was the consequence of that general prosperity in the country which had resulted from a decreased taxation. He took the same view with the rt. hon. gent. with regard to the principle of trade; but he thought a repeal of the assessed taxes would give greater satisfaction at present than any other measure. With regard to the house and window tax, he could hear of but one expression among all ranks—that they ought at once to be got rid of. The hon. member, after observing that his estimates were formed upon the produce of the various duties for the last year, stated that the total amount to which the repeal he proposed would go, was about 3,970,000l. He sat down by saying—"That the house and window taxes—the tax on servants and carriages—the tax on horses, dogs, hair-powder, game, and horse-dealers' licences, and armorial bearings—should be repealed."

Mr. *Laycester* seconded the resolution. Let these taxes be taken off, and the revenue would lose nothing, for the country would be richer, and the consumption on all hands would be greater. Gentlemen would keep more horses, more servants, and contribute to the support of the state full as effectually as they did at present. Under the existing system, the land was overshadowed with tax-gatherers, a venal phalanx, always ready to rise at the beck of any minister who thought proper to command them. The whole process attendant upon surcharge was vexatious and unsatisfactory in the highest degree; and the trouble of appeal was such as to render that remedy entirely unavailable.

The *Chancellor of the Exchequer* said, that he would make a few observations in support of the course which he lately thought it necessary to adopt. First, then, the hon. member complained of the 15 per cent. duty remaining on hemp; but he could assure him, that those interested in the article felt the reduction given, a very considerable boon. It would be remembered, too, that though this remaining duty at the present low price of hemp, amounted to 15 per cent. it would fall to a lower rate, if, as was very probable, the commodity itself should rise in value. The next item complained of was the reduction upon coffee: in which, it was said, the charge was unimportant. He could only reply, that it was an article in very general use, and one which would be more generally in use if the duty upon it were lighter. For some years past, its consumption had been decreasing, which was a certain sign that the duty was higher than it could bear; and upon the propriety of encouraging in our West India possessions, the growth of all produce which could be raised with little slave labour, he apprehended that, on neither side of the house there could be any doubt. With respect to the article of wine, he still contended that that was not a mere article of luxury; and even if it

were, he saw no reason why it should not be placed within the reach of the middle classes of society. The hon. member complained of the reduction of the duty on British spirits. But he forgot that it was impossible, after reducing the duties (to prevent smuggling) in Ireland and Scotland, that the tax could be left at 2s. a gallon in Scotland, and 10s. 6d. in England; and, for the complaint that this measure did not complete the purpose—that, as there was still a duty, smuggling might still exist—that argument was perfectly true; but every thing could not be done at once. The hon. member had rather that the duties had been taken off tea, or off tobacco, than off spirits; but even that project would not be found entirely free from objection. The reduction of duty on spirits had cost the revenue 750,000l. Now, the duty on tobacco afforded 3,000,000l.; and to have reduced it less than 50 per cent. would have been of no use to the consumer. Then say that, allowing for increased consumption, the loss of duty instead of 50 per cent. would have come to 25, still the cost of that reduction would be 750,000l.; which, added to the reduction given on spirits, the whole disposable sum of 1,500,000l. was at an end. Again, for the article of tea—certainly the duty was heavy enough on that commodity—it was one hundred per cent. and it produced 3,000,000l. But if the duty on tea were reduced, it must be reduced to a great extent—perhaps not less than three-fourths. Here then would be a loss, at first sight, of 2,250,000l.; but suppose the eventual loss only to reach 1,000,000l., where were the funds from which these enormous deficiencies could be made up? Now the house would remember that, with reference to the assessed taxes, something had been done already. Within the last four years assessed taxes had been repealed to the amount of three millions and a half—that was, one half of them had been taken off. Out of ten millions in taxes reduced, three millions and a half had been reduced in assessed taxes: this was at least such a reasonable proportion as showed no inclination to neglect the subject. But the hon. member's plan was—"Get rid of the sinking fund, and you may repeal all the assessed taxes that remain." The hon. member was mistaken; either he was wrong in one of his statements, or even the giving up of the sinking fund would not enable Government to meet his views. For, according to the hon. member's account of the sinking fund itself, it was not a fund of 5,000,000l., but one only of 3,000,000l. Now, if the hon. member was right here, even the application of the sinking fund would not be sufficient for his purposes. It would be ridiculous to leave the finances of the country in that state, so that it would become a matter of doubt, whether there should be a million of surplus, or a million of deficit. The late Mr. Ricardo, and other members, had admitted the expediency of retaining a surplus; but the motion of the hon. member would destroy all surplus. As to the observation of the hon. member, that his (the Chancellor of the Exchequer's) propositions respecting the reduction of duties had created universal disappointment in the country, he would only observe, that any such feeling had not been expressed to him, nor did he believe that it existed in the country. He rather thought, that if the opinions of the public could be known on this point, it would be found that the course which he had pointed out was

considered as most consistent with a fair, just, and enlightened regard to the interests of the country (hear, hear).

Mr. Calcraft fully approved of the proposed reduction of the wine duty, and he had no doubt the right hon. gent.'s health would be drunk on that occasion, at many a convivial board. But he thought the reduction would not be effectual if he did not go a step farther. By the treaty with Portugal, in 1810, it was agreed that every encouragement should be given to English companies dealing in the wines of that country, but the fact was, that since then a Portuguese company was established, which, by its *dictum*, decreed that so many thousand pipes of wine and no more, should be annually imported into England, so that they effected a complete monopoly. It was something similar with respect to the importation of claret. That trade was in very few hands, and the price was regulated by the quantity which they pleased to import. He trusted that his Majesty's ministers would interfere in some effectual way to prevent this monopoly, otherwise their proposed reductions would not be found of much advantage to the country. He stated in conclusion, that he would give his support to the two first propositions of his hon. friend for the repeal of the house and window tax.

Mr. Alderman Wood contended that the partial repeal of taxes, which the Chancellor of the Exchequer proposed would not give any effectual relief, and he was sure that it was not so considered by the great body of the people. He had had petitions, very numerous signed, to present, praying for the repeal of the whole of the assessed taxes.

Mr. Huskisson said, that the Opposition had always contended that direct taxation was less mischievous than indirect taxation. Now, the income tax upon principle, would have been unquestionably, he (Mr. Huskisson) agreed with those hon. gents., the least objectionable of any direct taxes, had it not been for the inquisitorial mode of collection that was unfortunately connected with it. The window-tax, being freed from that objection, was now the least objectionable, as he thought, of all direct taxes.—When his rt. hon. friend first proposed to reduce the tax on wine, he proposed that a proportionable allowance should be made to the wine merchant on their stocks in hand.—Now he (Mr. Huskisson) had heard with considerable indignation (hear, hear), that they had somehow or other managed, within these few days, to double their stocks, and to raise the price in a ratio about equal to the amount of the reduction of duty (hear, hear). If the fact were really so, it might be very proper for the house to consider whether the intended reduction of the duty on their stocks in hand should go into the tills and pockets of those conscientious gentlemen, or into the coffers of the Exchequer (hear, hear). When they should have got rid of their stocks on hand, it might be proper to consider whether the suggested relief should or should not be afforded them in any shape. The difference to the revenue on the remission of the duty in question, would have been somewhere about 300,000*l*. To revert the question before the house, and supposing for a moment the whole of the assessed taxes were reduced, their amount would be expended by those who formerly paid them, in the increased consumption of various articles, which gentle-

men would then, doubtless, indulge in. Then, whenever a war might happen, (distant as he hoped the day would be,) it would surely be a serious inconvenience to have the whole of the 7,000,000*l*. which those taxes yielded, at once re-imposed: for it should be observed that they had been imposed, not at once, but gradually, and by small degrees. To those reasons, too, he must add the authority of our ancestors; seeing that the window-tax was one of the most ancient taxes ever imposed in this country. At the present moment, notwithstanding the immense increase of the population in the intervening period, its produce did not much exceed the amount it yielded before the commencement of the last war; and therefore it could not be presumed to be quite so burdensome as it had been represented to be.

Mr. T. Wilson could not repress his astonishment at the language which had been held by the rt. hon. gent. From that rt. hon. gent., the avowed friend of free trade, and the advocate of that cause against all monopolies, he had never expected to hear such manifest contradiction and inconsistency, as he had this night been guilty of, in his remarks on the recent rise in the price of wines. The fact was, that it was the severe weight of the tax which pressed on that article, that had kept people back, upon small stocks, from purchasing: but on the first prospect of a reduction of the duties, they very naturally came forward, in order to replenish their cellars. The consequence was, that for the moment the demand exceeded the supply, and hence the price was excessive (hear, hear). Were the wine-merchants to be spoken of as if this effect had been caused by them? Or could they make the rt. hon. gent. himself, for example, buy, if he did not like to do so (hear, hear)? Of all other persons in the world, he should least have expected these remarks from the right hon. gent. With regard to the question before the house, he expressed his satisfaction with what had been done, by the Chancellor of the Exchequer.

Mr. Huskisson said, that the treaty by which the duty on Portuguese wine was regulated was not that of 1810; but the Methuen treaty, which stipulated that the wines of Portugal should be admitted into this country on the payment of one-third of whatever duty should be payable on the wines of France. In return for this arrangement, Portugal consented to receive, which she had not done before, the productions of our woollen trade. This treaty with our ancient ally bore date in the year 1703. By it it was agreed also, that either party to the contract, at the expiration of every period of fifteen years might give notice of a revision to the other. The treaty of 1810 had been executed with a view of this kind; and at the end of 1825, therefore, it would be competent for either party to propose the introduction of such changes as its own interests, consistently with the spirit of the Methuen treaty, might seem to require. Hon. gents. had with justice complained of the manner in which the wine trade was carried on in Portugal by a chartered company, created by the crown of Portugal; not, however, recently, but at least 60 years ago. Its establishment, 60 years since, arose out of the mal-administration of the wine trade by the English factory, at that time settled at Lisbon. At the close of the present year, however, he should be very glad to receive any suggestions

with a view to the improvement of our wine trade with Portugal.—As to what had been called his monstrous proposition about the wine merchants, he thought he had been misunderstood. When Lord Bexley was Chancellor of the Exchequer, a reduction of the duty on malt was proposed by the ministers; and it was intimated that a remission of duty would be allowed on the stock in hand; whereupon a great brewer (Mr. Calvert) in that house said that the public would not benefit by the reduction of duty, for that brewers would put the difference into their own pockets. He (Mr. Huskisson) then called on the Chancellor of the Exchequer not to allow any such remission in the teeth of such a declaration; when the brewers thought fit to retract, and the public had the benefit of the reduced duty (hear, hear). What, therefore, he had done by malt, he would certainly do by wine (a laugh).

The *Chancellor of the Exchequer* observed, that there was an article in the treaty of 1810, which went, in its terms, to preclude Portugal from creating or sanctioning any monopoly that should be prejudicial to the interests of the British trade. At that time, the Oporto wine company did not exert its privileges in any such manner, or to such an extent, as to interfere with the British trade. In course of time, however, it undoubtedly did so; and that fact became the subject of complaint on the part of the British Government, to the Government of Portugal. The Government of Portugal, thinking, probably, that they derived some advantage from such a company, always denied the construction which England put upon the treaty; and long and unsatisfactory discussions were engaged in by both parties on that question. In 1820, a new minister was sent by Portugal to this country, charged to negotiate a revision of the terms of this contract. To say the truth, he seemed to know very little about his business (a laugh), and was soon after recalled. At the end of the present year, although nothing definitive had yet been settled, England and Portugal would certainly be in a condition to enter on the proposed revision.

Mr. *Majoribanks* thought that the gentlemen engaged in the wine trade would act, not only unjustly, but inconsistently with their own interests, if they did not reduce the prices of all their wines after a ratio at least equal to the reduction of duties upon them.

Mr. *C. Calvert* said, that when the *rt. hon. gent.* (Mr. Huskisson) had alluded to an expression of his on the subject of the malt duty, he had not been correct in his statement. His statement really was, that the brewers could not take off one halfpenny per pot on the beer, as that would amount to a reduction of 2s. in the same quantity in which the Government had only effected a reduction of eight shillings. He wished this to be distinctly understood, as he thought the cry for reduction, against the brewers and wine merchants, was urged without reference to any of the circumstances of the case. He could tell the *rt. hon. gent.* that the brewers did not care for him at all (laughter); and they would only be governed in the selling price of their article by the price of the raw material of which it was composed, and the cost of production.

The house then divided.—For the motion, 64; Against it, 111; Majority, 47.

## *Window Tax.*

TUESDAY, MAY 17.—Mr. *Hobhouse* said, that notwithstanding the general approbation of the plans of Government, an universal dissatisfaction prevailed that more had not been done in the removal of direct taxation. Of this description of taxes none were more unpopular than the tax of which he was about to move for the repeal. In Ireland, where it had been removed by a less yielding Chancellor of the Exchequer, it was called the fever tax; and in England he was prepared to show that its moral and physical effects were most burdensome and disastrous. He was not exaggerating when he said that a gentleman received from the tax-gatherer the paper of assessment with the same dread that a Pacha received the firman of the Sultan. One of the greatest objections to these taxes was, that it made the Government hateful to the people, by bringing them in perpetual contact with the collectors. They also were the cause of much subterfuge and fraud. The *rt. hon. gent.* (Mr. Huskisson) in a letter to his constituents, stated amongst his reasons for not voting for the repeal of the window tax, that the tax was not inquisitorial. He (Mr. Hobhouse) thought it was peculiarly so. The inspector was authorized to enter houses twice a year, which created a constant dread in the minds of the inhabitants. The repeal of the duty on wine and spirits would not afford so much relief to the people as the repeal of the window tax. No benefit had resulted to the poorer classes from the repeal of the window duties on houses having not more than seven windows, because the tax was paid, not by the tenants, but by the landlords; so that when the tax was repealed, it only went into the landlords' pocket, for the rent remained the same. Another of the arguments of the *rt. hon. gent.* (Mr. Huskisson) in favour of the window tax was, that it had the merit of antiquity. This argument was not well grounded. The window tax was a substitute for the hearth tax, which was one of the evils complained of at the revolution, and was enacted in the 13th and 14th of Charles II. In 1784 Mr. Pitt raised the window tax, and the people were then told that if they did not consent to that, they must have a higher tax on tea. In 1797 the watch and clock makers were calling for relief, and were told that they could not obtain it unless the window tax were augmented. So odious was this tax to the people of England, that ministers never attempted to augment it, except on some pretence of this kind. The window tax operated unfairly to some trades which required more light than others. The effect of this tax was to prevent even rich men from having a sufficient number of windows. At least he could find no other reason for the absence of windows in some of our most leading streets. In Piccadilly there was a house belonging to a very rich individual in which scarcely one window was to be seen. When he had on former occasions moved for the repeal of this tax, he had always been told by *gents.* on the other side, that they had voted for the estimates for the year, and could not therefore support a motion which would prevent those estimates from being carried into effect. On the present occasion, therefore, he would confine his motion to calling upon the house to pledge themselves to repeal the tax

in the next year. The people of England had a right to be relieved, in the tenth year of peace, from this intolerable burden. He concluded by moving, "That it is the opinion of this house that the numerous petitions of the people for the repeal of the window tax are highly deserving the attention of this house; and that, therefore, from and after the 5th of April, 1826, the said tax ought to be immediately and totally repealed" (hear, hear).

The *Chancellor of the Exchequer* said, that the hon. mover had laid much stress on the petitions which had been presented to the house. Now, in point of fact, they were doing justice to the people by not listening to complaints which it was impossible to remedy. The reduction of the tax upon houses not having more than seven windows would relieve 2,000 persons in Westminster. The hon. member said that the tax on this description of houses was not paid by the tenant, but by the landlord. But Government could not help that; it had done all in its power to relieve the tenant, and could not be answerable for the exactions of landlords. He could not concur with the hon. member in lamenting the paucity of windows in the buildings of London; on the contrary, he thought that if the houses of London were chargeable with any deformity, it was that of having too many windows. In conclusion, he contended, that the parliament would best promote the interests of the country by pursuing the course of a reduction of indirect taxation. For these reasons he should oppose the motion.

Mr. *Maberly* stated, that ministers set their own individual opinions in opposition to the sentiments of the whole country.

Sir *F. Burdett* said there was no tax which was attended with more ill consequences, or more unequal in its pressure. In its collection no regard was paid to the means of those on whom it was imposed. He would prefer having the window-tax incorporated with the house-tax, by which one set of collectors would be got rid of. Under the present system the privacy of people's houses was continually invaded.

The house then divided—For the motion 77—Against it 114—Majority 37.

### *Spirit Duties.*

FRIDAY, APRIL 22.—The house having resolved itself into a committee on the *Spirit Duties* bill,

The *Chancellor of the Exchequer* said he had already explained to the house the grounds upon which he thought it expedient to assimilate the distillery laws of England with those of Scotland and Ireland. He would state generally the sort of regulations which he proposed to adopt for this branch of the trade and manufacture of the country. In the first place, it was necessary to impose certain restrictions on the persons carrying on this trade: he should be glad if this had not been necessary, but the large amount of the duties rendered it impossible to waive them. In Ireland and in Scotland, no person was allowed to carry on the trade of a distiller without the certificate of a justice of the peace. This regulation, which the peculiar circumstances of Scotland and Ireland rendered necessary, he did not propose to adopt in England. The qualification which he should suggest instead was, that persons carrying on the

trade of distillers, should inhabit and pay the rates of houses of the rent of 20l. per annum. This would facilitate the collection of the duty, while, if persons who could distill in a tin kettle were permitted to do so, the excise would be cheated at every turn. The next regulation was, that all persons licensed to carry on the trade of distillers, should be resident within a quarter of a mile of a town in which there should be 500 inhabited houses, in order to secure a sufficient number of excise officers for the preservation of this branch of the revenue. With respect to the size of the stills, it had been found necessary in Ireland and in Scotland, where smuggling was extensively carried on, to use stills of very small dimensions. In England there was not the same necessity, and it was therefore his intention to reduce the size of stills from 3,000 gallons the present rate, to 400, the dimensions of which they had been formerly. He would now state to the committee the alterations which he intended to propose respecting the duties. The existing duty was 10s. 6d. per gallon at 7 per cent. above proof. It would, he thought, be a great improvement to adopt the rule observed in Ireland and Scotland—namely, to fix the duty according to the proof strength of the spirit, and that duty he proposed should be 5s. 10d. per gallon. He would shortly explain why he had fixed on that particular sum, which might otherwise appear somewhat singular. The first idea was to fix a duty of 6s. upon spirit distilled from malt, and 6s. on that distilled from grain; but, on looking into the details of the subject, he found that it would be difficult to make a distinction between the two kinds of spirit. He was therefore determined to make the duty uniform, without reference to its being distilled from malt or grain. It would be in the recollection of the house, that a bill had passed last session for regulating weights and measures, which was to take effect next year. According to that bill, the standard by which measures were to be hereafter regulated was the imperial gallon, which differed from the ordinary wine measure on which the duty on spirits was at present taken. The imperial gallon might be represented by six, whilst the common wine gallon might be represented by five. If he had fixed the duty on the common wine gallon at 6s., the relation which it would have borne to the imperial gallon, would have been inconvenient, as it would have left an indescribable fraction of a farthing unaccounted for. The duty of 5s. 10d. on the common wine measure, however, corresponded exactly with the duty of 7s. on the imperial gallon; and thus any intricate calculation would be avoided in the settlement of questions which might arise between the excise-officer and the dealer. He concluded by moving several resolutions to the effect of what he had stated.

Mr. *W. Smith* disapproved of the proposed reduction of the duty on spirits, on the ground that it would tend to deteriorate the health and morals of the people. It was proved by the evidence given before the police committee in 1817, that there was scarcely one instance of desperate murder or burglary which occurred in the metropolis, that was not attributable to the influence of ardent spirits. Was it possible then, that a measure could be considered beneficial, the object of which was to reduce the price of spirits nearly one-half, and consequently to bring them more within the reach of

the poorer classes. It was said that the reduction of the price of spirits would not increase their consumption. He was at a loss to reconcile that assertion with the argument of the Chancellor of the Exchequer on a former evening, when he proposed a reduction of the wine duties. The *rt. hon. gent.* then said, that a reduction of duty would cause an increased consumption. That he believed would be the effect of the reduction of the spirit duties; for he could not believe that the poor would be better able to resist temptation than the rich. Scotland was often referred to as affording a proof that the cheapness of spirits did not lead to drunkenness amongst the poorer classes. He admitted that the Scotch were sober people, but much of their sobriety was attributable to their poverty. There was an old story of Dr. Johnson and Solan geese. The Doctor was told by some person that Solan geese might be bought for two-pence a-piece in Scotland.—“Aye,” observed the Doctor, “but where are they to get the two-pence?” Whatever might be the result of the *rt. hon. gent.’s* propositions, he (*Mr. S.*) should rest satisfied with having delivered his soul on the subject.

*Mr. Hume* could not agree with the *hon. member* (*Mr. W. Smith*) in the view which he took of the consequences which would result from a reduction of the duty on spirits. The excessive use of spirits was generally the result rather than the cause of poverty and distress. In France and Holland, where spirits were very cheap, drunkenness was almost unknown. The same might be said of the United States of America.—The resolutions were agreed to.

### *Beer Duties.*

THURSDAY, MAY 5.—*Mr. Maberly* rose to submit a proposition for the repeal of the duties on beer. If ever there were a statute passed that was partial in its operation—that was contrary to justice—it was that which imposed the existing duties on beer. The Chancellor of the Exchequer and the *rt. hon. President* of the Board of Trade, declared that they wished to adopt a system of liberal policy in every respect; and after the liberal opinions he had heard them express on different occasions in that house, he had a right, he thought, to feel sure that he should have their votes this night. There was but one difficulty which stood in the way of his motion—there was but one argument which those *gentls.* could advance against it—namely, the loss which the revenue would sustain. The principle they must give up, unless they turned round on the arguments they had used themselves.—At present, there was a tax on malt of 20*s.* per quarter: but the house would recollect that the effects of that tax were very different on those who brewed their own beer, from the effect of the beer duties on those who purchased that beverage from the brewer. The rich man could brew his own beer; but the poor man, who had neither premises, capital, skill, nor time, could not. The beer duty was, in fact, a tax on the poor, from which the wealthy was exempted. The rich man paid 20*s.* per quarter for his malt. That was the only tax levied on him. But the poor man had to meet a double duty—20*s.* malt duty, and 3*s.* beer duty; making a total of 5*s.* To the rich man beer was a mere luxury; to the poor it was one of the indispensable necessities of life. The poor man required something more than the bread and cheese by which

he supported his existence. He required some liquor, and none was better for the purposes of nourishment and refreshment than beer. The effect of spirits upon the lower classes of the community was known to be most injurious and demoralizing. Upon this statement then, he asked whether the house would any longer continue a tax so partial in its operation, and which weighed so heavily upon the poorer classes? It had been said that the poor man might brew his own beer, and thus exempt himself from this tax; he could do no such thing. To brew required time, which he could not give; it required money, which he did not possess; and conveniences, which he could not command. It was probably the inhabitant of a garret, and his daily earnings only enabled him to provide for his daily necessities. Where, then, and how was he to brew? He had in reality no option, no means of avoiding the payment of this unjust and burdensome duty.—There was, however, a means by which the weight might be removed; and this was, by placing the duty on malt instead of on beer. The expense of collecting the duty on malt was now 300,000*l.* per annum. If the alteration he recommended should be adopted, this sum would be saved to the country; because, although the duty on one was 20*s.* and the other 3*s.* the expense of collecting would be the same.—But if the principle of the tax were right, why was it not followed up in other instances? Why were not tea, candies, soap, leather, glass, wine, and tobacco, all taxed in the same manner? Would the *rt. hon. gent.* dare to put in a schedule to any bill, such items as that the poor man should pay 6*d.* a gallon duty on his beer, while the rich man paid only 2*d.*? And yet this was the actual operation of the present law. It had been urged by way of excuse for this tax, that it prevented the mixing of noxious ingredients in beer; but if this were really the reason, why was it not applied to wine and tea,—or why were not the consumers left to the exercise of their own judgment and taste in that as in other things? The system as it existed encouraged a monopoly, if not to the brewer, at least to the retailer, by means of the licences. All the reasonable good that could be expected to result to the police of the country, would be from having public-houses placed under a proper surveillance, and this might be effected by allowing officers to visit the houses in which beer was retailed, to prevent their being made the resort of improper persons. If this were admitted, the house could not refuse to come to the decision that the sale of beer ought to be as free as that of any other commodity. But it would be said, perhaps, that to take off this tax might interfere with what the *rt. hon. gent.* called a sinking fund, but what he (*Mr. M.*) denied to be any such thing; because that only could be called a sinking fund which was an actual surplus in the revenue. He contended that the debt was now 12 millions more than it had been in 1816, and that this was occasioned by the “deadweight act.” If he had not already pointed out the injustice of the tax on beer, he would refer to the reduction which had been made in the duty on spirits, and which, as they were less necessary, ought to have been postponed in the course of relief to beer. He knew the *rt. hon. gent.* would say that his object in this had been to put a stop to smuggling; but in this he had not succeeded, because the motive still remained strong enough to induce the practice. Looking at the subject then



In this point of view alone, the people had a right to ask for a reduction. It would not, perhaps, be readily believed, but the fact was so, that the rt. hon. gent. and his colleagues, in their chambers in the Treasury, fixed the price of table beer. They might with as good reason fix the price of bread, as interfere with any other article not less necessary, nor of less common consumption. He hoped, if he were defeated, that he might at least convince the house of the injustice of this burdensome tax, and that some other more fortunate person would propose a measure which, if it did not do away with it altogether, would divide its weight equally between the rich and the poor. He then moved, "that from and after the 5th day of January, 1826, all the duties on beer should cease" (hear, hear).

Mr. Brougham, after repeating some of Mr. Maberly's objections, said that the beer tax was so barbarous that it could not be equalled by any in the world, excepting the Spanish *al cavala*. It was wholly impracticable for a person desirous to trade in beer by retail to do so unless he made friends with the brewers, who had influence with those worthy persons the magistrates, by whom, in various parts of the country, the regulations were formed relative to licences. He knew he spoke this in the hearing of many worthy friends of his who belonged to that class by whom beer was prepared for the use of His Majesty's subjects, and he knew that they had certain prejudices on this subject; but if the duty were taken off, he believed those prejudices would be in a great measure removed, and that they would consent to the freeing of the retail trade in beer from the present restrictions. To the persons interested in malting, this would be a decided advantage, because it would encourage the growth of grain upon middling land, which was at present used for grazing, and would thus materially benefit the open and barley countries. Another advantage attendant upon throwing the trade open, would be found in providing the poor man with a cheap and wholesome beverage, which he might procure without the inconvenience of sending his daughters or other females of his family to the public-house, to encounter all the inconveniences which at present could not be avoided. Gin would be in a great measure dispensed with; and the more the beer shops could brought into competition with the gin shops the better. He thought too that the duty on beer was peculiarly burdensome and unjust upon the poor, at this time, when the duty on wine had been reduced. He said nothing with respect to that upon spirits—God forbid that he should! He would rather even that the duty should be kept up unnecessarily high upon them—he would rather even that the natural liberty of the people should be in such a degree infringed upon, than that any facility should be afforded to the consumption of spirits, always, however, regulating the duty, so as to prevent the encouragement of private distillation, which of the two evils was the greater. He was sure that by encouraging the consumption of beer, the gap which the loss of the duty might occasion in the Exchequer would very soon be filled up. Whatever might be the fate of this motion, he trusted that his hon. friend would bear his ill-success with patience; from others he might learn fortune; but from his example, and from that school of disappointment in which they both had been exercised, he might be taught not to relax his

labour and perseverance in a cause which was worthy of them.

(Disce, puer, virtutem ex me, verumque laborem: Fortunam ex aliis).

The Chancellor of the Exchequer:—As to the total repeal of the duty without any substitute, he did not feel called upon to argue that question, because the hon. gent. himself did not seem to think it practicable to take off the three millions produced by the tax. A few weeks ago the hon. gent. proposed the reduction of the window-tax. The same arguments which had been used against that measure applied to the present motion, and he did not think the house would choose to listen to a repetition of them. He was aware that in so immense a system of revenue as ours, there might be very sound objections brought against many branches of it, perhaps against all; but beyond this general fact the argument could not be urged. The petitioners probably believed that the imposition of the beer duty on malt would materially reduce the price of beer; but he should be able, he thought, to satisfy the house, that this was not the case. The beer duty produced at present to 3,000,000*l.* per annum, and 80 million bushels of malt were charged with malt duty. To raise this tax by the substitution proposed, it would be necessary to lay an additional tax of two shillings per bushel on malt; which would raise the price of beer 10*s.* per barrel of 36 gallons, or about 1*d.* per quart. If, therefore, he admitted that the objections of the hon. gent. were valid against the inequality of the present duty, still the burden would rest as it did now, upon the consumer, who, although he would have the satisfaction of knowing that his neighbour paid more, would himself pay nothing less. But he could not admit that this tax was paid by the poor classes of the community exclusively or chiefly. In this town a great portion of the consumers of beer were not of this description, and in the country a great number of families were in the practice of brewing their own beer. Upon them this substitution would fall very heavily. The hon. gent. had assumed, too, in his calculation that the beer consumed by the rich and the poor was of the same strength—that it took in all cases only one quarter of malt to make three barrels and a half of beer. On the contrary, the beer of the rich man, whether he drank it himself or not, was much stronger than that brewed for ordinary consumption. In this point of view, therefore, the calculation of the hon. gent. as to the inequality was erroneous. The learned gent. (Mr. Brougham) had said it would be highly desirable to give greater facility to the retail trade. He agreed with him. It was that opinion that induced him to bring in a bill to accomplish that purpose, and which he had got the house to agree to, but with no small difficulty. If he might advise the learned gent. to learn *fortunam ex aliis*, although he would not venture to add *virtutem ex me*, the learned gent. certainly might learn the *verum laborem*. Although he could not pledge himself to any measure on the subject, he should be very glad if the state of the finances would allow him to take off the duty altogether; but he could not conceive that the proposed substitution would be in any respect desirable. The learned gent. had said, that he wished the reduction of the duty on spirits had been postponed to that on beer. If by a wish he (the Chancellor of the Exchequer) could have

managed the matter, it would have been done; but he was obliged, in dealing with the spirits, to provide against any diminution of the revenue, and to do it, in fact, when he could. The object in reducing the duty on wine had been not so much to relieve any particular class of the people as on a principle of commercial policy to bring back the consumption to that point from which, in consequence of the intercourse with the continent, and from other causes, it had fallen off. All he could say on the subject before the house was, that it would give him great satisfaction if he were able to reduce the duty on beer. If his expectations should be realized, he would take the first opportunity of dealing with the subject, but he must not hold out expectations of the fulfilment of which he was not certain. With respect to the hon. gent.'s opinion respecting the collection, if the hon. gent. were more deeply initiated into the mode of collecting the malt duty, he would know there was none in which more frequent attempts at evasion (many of them successful) were made. Frequent prosecutions were the consequence; and if a double duty were imposed, a double temptation would be the consequence. For these reasons he could not consent to the reduction of 3,000,000*l.* of taxes, nor at present to any other modification of the duty.

Mr. *J. Smith* thought, as regarded the question of the sinking-fund, that any deficiency occasioned by taking off the beer tax might be made up by the imposition of some other. He would not at all object to putting the whole duty upon malt, which was proposed to be reduced on the manufactured article; but he certainly did feel that after so much had been done for the advantage of the higher classes in the course of the present session, something ought to be thought of before it concluded, for the benefit of the lower.

Mr. *Maberly*, in reply, regretted to see the benches on his side the house so thinly attended. He hoped, if his motion were thrown out, (as it stood, perhaps, in a fair way to be), that it would not be long before the table of the house would be covered with petitions for a reform in the constitution of that house.

The house then divided—For the motion 23; Against it 88; Majority 65.

### *Soap and Tallow Candle Duties.*

TUESDAY, JUNE 7.—Mr. *Sykes* rose to move for a reduction of the duty on soap and tallow candles. In so doing, it was ~~not~~ his intention to disturb the financial arrangements of the year, but merely to call upon the house to give a pledge that it would take the subject into its consideration at an early period of the ensuing session. As yet nothing had been done for the relief of the poorer classes, and he could not think of returning into the country without being able to tell his constituents that he had at least made the attempt to reduce those burdens, which pressed with peculiar severity on such of them as were least able to bear the pressure. The principle of repealing such duties had already been recognized by the reduction in the duties upon salt and leather; he trusted that the hon. Chancellor of the Exchequer would have no objection to carry it further, and to apply it to the taxes upon soap and candles. He contended that these taxes were objectionable, because they raised the price to the consumer by

much more than the sum which they carried into the Exchequer; because they created great irritation to the manufacturer, besides the expense attending their collection; and likewise because they gave rise to a system of contraband dealing pregnant with much evil to the community. With respect to soap, the duty on the raw material was 100 per cent., and when it was cleansed, it was charged with an additional duty of 20 per cent. more. Could the house, then, be surprised, that in a manufacture so easy as that of soap, there was a multitude of contraband dealers? During the war, every smuggler in soap made 35 per cent. on every pound of soap he manufactured; at present, he understood, his profit was still greater, and fell little short of 100 per cent. He contended, that by the artifices of the smuggler, the Government was defrauded of the duty of one million pounds of soap a-year. Taking the annual returns of the duties on this article for the last three years, he found that the return of the last year, as compared with that of the preceding one, showed a decrease of 3,260*l.* He next read a statement to show that, making all allowances, there would still remain in the article of tallow 40,000 tons upon which no return of duty had been made. The duty on soap was 3*d.* per lb., and on candles 1*d.*; so that it was probable the greater share of the deficit occurred in the former article. He meant to propose the repeal of the whole of the tax on soft soap, and one-half of the duty upon hard. This would at once knock the smuggler on the head, and nothing else would. With respect to the duties upon candles, every argument which had been used as to soap applied equally to them, with this additional reason—that their manufacture afforded a greater facility for evading the revenue. Besides this, the poor man had to pay 10 per cent. more for his taxable commodity than the rich man; for there was exactly that difference between the amount of duty on the dipped and the mould candles. But he did not mean, even with all these reasons for the repeal, or at least for the reduction of these duties, to call for the alteration of this system at once: all he meant to propose was, that the house should pledge itself to reduce them early next session. It was the custom of Andrew Marvell, who once represented the town which he (Mr. *Sykes*) had now the honour of representing, to write every night to his constituents what he had attempted to effect for their interests in Parliament. He could not boast of such industry; but he liked, at all events, to communicate with them once a-year, and he hoped to bear good tidings to them on this occasion—not that he expected, or looked for, the old rewards which they used in former times to bestow, for he found entries of “a fitch of bacon sent to Andrew Marvell,” and other presents of a like nature. Though these good old times were passed away, still he thought the people of England would always be found grateful to Parliament for a close attention to their interests. He concluded by moving, that “it will be expedient early next session, or as soon as the financial situation of the country shall admit, to reduce the duties upon soap and candles.”

The Chancellor of the Exchequer contended that, having repealed taxes to the amount of one million and a half during the session, it was impossible to proceed further at present. The hon. gent. had shewn no reason for re-

ducing these duties in preference to those upon which reductions had been made, and he must, therefore, resist the motion.—Negatived without a division.

FRIDAY, MARCH 25.—The house having resolved itself into a Committee to consider of the Consolidated Custom Duties,

Mr. *Huskisson* said, that in requesting the attention of the committee, whilst he stated (in continuation of the subject which he had the honour to open on Monday last\*) the alterations which he proposed to recommend in the duties levied upon the importation of materials employed in some of our principal manufactures, and also in the prohibitory duties now imposed upon the manufactured productions of other countries, he need scarcely bespeak the disposition of the committee to countenance the principle of these proposals, so far as they should be found not inconsistent with the protection of our own industry. He felt the more assured of this general disposition of the committee, not only as it was manifested on the former evening, but also from the experience which the house and the country had of the benefits to be derived from the removal of vexatious restraints and interference, in the concerns of internal industry, or foreign commerce. He thought he was not too bold in stating, that, in every instance, as far as he and his right hon. friend (the Chancellor of the Exchequer) had hitherto gone, not only had the fears and forebodings of the particular interests by which they were opposed proved to be unfounded, but the expectations of their most sanguine supporters had been more than realized. In these advantages, therefore, the opponents of the measures by which they were produced, must, on the one hand, find a matter of consolation, that their admonitions did not persuade—that their arguments did not convince—that their predictions did not intimidate; and, on the other hand, past success was, to the supporters of these measures, a source of encouragement to follow up the same path, as likely to lead us still further in the career of public prosperity.—Last year, in the system of our Silk Trade, one great alteration was the substitution of an *ad valorem* duty of 30*l.* per cent. instead of an absolute prohibition of all articles manufactured of silk. A doubt was suggested at the time, and in that doubt he had participated, whether 30*l.* per cent. was not too high a duty;—not too high, indeed, according to the apprehensions of the British manufacturer—for he stated it would be quite inadequate to his protection; but whether its amount would not still leave some latitude to the smuggler. This latter ground of doubt still remained—the former was already pretty well removed. If alarm now existed any where, and he knew it did exist, it was transferred to the other side of the Channel, and was to be found only among the manufacturers of France, in consequence of the great progress and improvement, since made in this country, in every branch of the silk trade. Having thus ruled that 30*l.* per cent. was the highest duty which could be maintained for the protection of a manufacture, in every part of which we were most behind foreign countries—the only extensive manufacture, which, on the score of general inferiority,

stood in need of special protection,—surely it was time to inquire in what degree our other great manufactures were protected, and to consider if there were no inconvenience or injury caused to ourselves, no suspicion and odium excited in foreign countries, by duties which were either absolutely prohibitory, or, if the articles to which they attached admitted of being smuggled, which had no other effect than to throw the business of importing them into the hands of the smuggler. To bring this subject more particularly before the house, he would begin with our greatest manufacture, that of Cotton. In this manufacture, we were superior to all other countries; and by the cheapness and quality of our goods, we undersold our competitors in all the markets of the world, which were open alike to us and to them. He did not except the market of the East Indies, the first seat of the manufacture, of which it might be said to be the staple, where the raw material was grown, where labour was cheaper than in any other country, and from which England and Europe were, for a long time, supplied with cotton goods. Now, however, large quantities of British cottons were sold in India, at prices lower than they could be produced by the native manufacturers. If any possible doubt could remain, that this manufacture had nothing to apprehend from competition any where, and, least of all, from a competition in our own home market, it must vanish when he stated, that the official value of cotton goods, exported last year, amounted to the astonishing sum of 30,795,000*l.*: and yet such had been the extravagant sphere of a jealous monopoly, and the influence of old prejudices, that in our book of rates, the duties stood at this moment, as follows:—On certain descriptions of cotton goods, 7*½l.* on others 6*½l.* 10*s.*, and, on a third class 30*l.* per cent. These absurd duties, attached alike upon the productions of our own subjects in the East Indies, as upon those of foreign countries; whilst our manufactures were admitted, almost duty free, into all the territories of the East India Company. Instead of this scale, he proposed to admit all foreign articles, manufactured wholly of cotton, whether from the East Indies or elsewhere, at one uniform duty of 10*l.* per cent., which, he conceived, was sufficient to countervail the small duty levied upon the importation of the raw material into this country, and the duty upon any other articles used in the manufacture. Any protection, beyond this, he held to be not only unnecessary, but mischievous.—From cotton, he proceeded to Woollens, one of our oldest manufactures, and one which had been most nursed and dandled by the legislature. Some detailed and authentic history of the paternal and zealous solicitude with which our ancestors interposed to protect the woollen manufacture,—should such a history ever be written,—would alone preserve future generations from incredulity, in respect to the extent to which legislative interference was once carried in this branch of internal industry. Within his own time, regulating acts, dealing with every minute process of the manufacture, had been repealed by the score; as had also heaps of other laws, equally wise, prescribing the mode of clipping wool, its package, the time to be allowed, and the forms to be observed, in removing it from one place to another;—laws, the violation of which, in some instances, amounted to felony, but

\* See speech on the Colonial Trade bill, ante p. 286.

which no longer disgraced the statute-book. He would state, from official documents, what had been the relative progress of our cotton and woollen manufactures since 1765, being a period of sixty years:—

The quantity of cotton wool imported into Great Britain, in the year ended Jan. 5, 1765, was about . . . . .	3,360,000 lb.
The value of cotton goods exported . . . . .	200,000 l.
The quantity of cotton wool exported in the year ended Jan. 5, 1825, was . . . . .	147,174,000 lb.
The value of cotton goods exported . . . . .	30,725,000 l.
The quantity of lamb and sheep's wool imported in the year 1765, was . . . . .	1,926,000 lb.
The value of woollen goods exported . . . . .	5,159,900 l.
The quantity of lamb and sheep's wool imported in the year 1825, was . . . . .	23,858,000 lb.
The value of woollen goods exported . . . . .	6,926,000 l.
And he would just add, that—	
The quantity of raw silk imported in 1765, was . . . . .	418,000 lb.
And in 1825 . . . . .	3,047,000 lb.

In submitting these satisfactory statements, he could not refrain from calling the attention of the committee to one observation. It must, he thought, be admitted, that, in 1765, the whole quantity of sheeps' wool grown in this country could not be nearly so great as at present, when, owing to the improvements in husbandry, and particularly in the art of raising winter food for the flocks, the number of sheep must be greatly increased; and yet, the quantity of wool imported in that year, was not one-twelfth of the quantity imported in 1825. Out of this aggregate supply from home growth and foreign import, the whole wants of our own population was supplied in 1765, leaving to the amount of 5,159,000 l. of manufactured woollens for exportation. In 1825, out of the aggregate of the home growth, and of an import of wool so greatly exceeding that of 1765, the whole manufactured export is 6,926,000 l., being an increase over that of 1764, of only 1,765,000 l. Now, he would ask, how often, in these sixty years, had the increase of consumption in cotton and silk clothing been contemplated with alarm and jealousy, by the wool grower, and the woollen manufacturer; by the descendants of those who passed laws (repealed only within these last ten years) compelling us to be buried in woollens?—And yet what was our consumption of cotton, that other great article of clothing?—In 1765, next to nothing. And what is it now?—Greater probably than the whole amount of our woollens, to say nothing of the consumption of silk, which had also increased eight-fold. Could any statement shew more decidedly the wonderful increase in the power of consumption by this country? Could any thing more forcibly illustrate that general position to which he had already adverted, and which could not be too strongly impressed on those who legislated for the interests of commerce and industry,—that the means which led to increased consumption, and which were the foundation, as that consumption was

the proof, of our prosperity, would be most effectually promoted by an unrestrained competition, not only between the capital and industry of different classes in the same country, but also by extending that competition, as much as possible, to all other countries?—The present rates of duty on foreign woollens varied from 50 l. to 67 l. 10 s. per cent. He was satisfied that 15 l. per cent. would answer every purpose of reasonable and fair protection; and this was the reduction which he intended to submit to the committee.—The next great branch of manufacture was that of Linens; which also had been the object of more nursing and interference than were good for its healthy and vigorous growth. The present duties, which were very complicated, fluctuated from 40 l. to 180 l. per cent. and he proposed to simplify and reduce them, by putting them all at 25 l. per cent.—In like manner the duties on Paper, which were now altogether prohibitory, he proposed to reduce, so that they should not exceed double the amount of the excise duty payable upon that article manufactured in this country. This reduction would extend to printed books, which now paid, if in any way bound, 6 l. 10 s. and, if unbound, 5 l. the cwt. The amount of these duties was sufficient, as he had been assured, to lead to the smuggling of books printed abroad; and he was sure that, for the character of this country—for the interest of science and literature, the importation of foreign works, which did not interfere with any copyright in England, ought not to be discouraged. He should, therefore, propose to lower these duties, regard being had to copyrights, which might require specific provisions, to 5 l. 10 s. and 3 l. respectively.—Upon Glass, the present duty, which was 80 l. he proposed to lower to 30 l. per cent.; and, instead of the heavy duty, so justly complained of, upon common Glass Bottles, amounting to 10 s. 2 d. a-dozen, and which, now that wine was reduced in price, amounted, in many cases, to more than half its value, he intended to recommend a duty of 3 s. only.—Upon all descriptions of Foreign Earthenware, an article with which we supplied so many other countries, the present duty was 75 l. per cent.; the effect of which was, that ornamented porcelain was abundantly smuggled from the continent. He proposed to reduce the duty on earthenware and plain porcelain goods to 15 l., and upon porcelain, gilt or ornamented, to 30 l. per cent.; which was quite as much as could be demanded, without throwing this branch of import into the hands of the smuggler.—To foreign Gloves, another manufacture now altogether prohibited, but which were to be bought in every shop, he applied the same observation, and the same measure of duty, 30 l. per cent.—He now came to the Metallic substances. The amount of the reduction which he proposed upon Iron, from 6 l. 10 s. to 1 l. 10 s. a ton, had already been stated by his rt. hon. friend (the Chancellor of the Exchequer)\*. It afforded him great satisfaction, on that occasion, to hear the liberal sentiments avowed by a worthy Alderman (Thompson) extensively concerned in the iron works of this country. His unqualified approbation of this important change, he had flattered himself, would have been echoed by all the other iron masters: but in this expectation he had been

\* See ante, p. 351.

disappointed. Deputations from the mining districts had since been at the Board of Trade. He had heard their representations, but had not been convinced by them. Like other deputations he had received, whose interests in manufacture or trade are affected, or likely, in their apprehensions, to be affected, by the changes, those from the mining districts were great advocates for free trade generally, and forward in their approbation of the principles on which the government was acting; but each had some reason to assign, quite conclusive, no doubt, in themselves, why their peculiar calling should be made an exception. All these special reasons had only satisfied him (Mr. H.) that the general rule of free competition was the best for all trades, as it was certainly the best for the public; though he could quite understand, that a privilege or monopoly given to any one branch, whilst it was denied to all others, might be an advantage to that particular trade. But was it fit, that in an article like iron, of universal use in all our manufactures—in all the arts and conveniences of life—in agriculture—in houses—in ships—we should now be suffering from a scarcity of that metal? Had not the price of British iron, of late, been almost doubled, and had not all the iron masters demands for iron beyond what they could supply? Was there no risk or danger to our hardware manufacturers at Birmingham and Sheffield, from this state of things? Could they execute the orders which they received from abroad, if iron continued at its present price, or were to rise still higher? How many thousand workmen would be thrown out of employ, if this branch of trade were lost to this country—if it were to be transferred, for instance, to Germany, the Netherlands, or other parts of the Continent? He had been assured, upon authority not likely to have mislead him, that very extensive orders, which had lately been received at Birmingham from the United States, and other parts, had been refused, because the great rise in the price of iron did not admit of the articles being made within the limits specified in those orders. And what was the consequence? They were transferred to the Continent; and the share of this country in their execution, was confined to making the models and drawings, which were prepared here, for the guidance of the foreign artificers. It was therefore, of the greatest importance, that the duties on foreign iron should be reduced, in reference, not only to the interests of the consumer in this country, but also to the well-being of those numerous classes employed in all the manufactures of this metal for foreign countries. The necessity of this reduction became the more urgent, from the fact, that, at this time, the whole produce of the British mines was not adequate to supply the present demand. But quite independent of this evil, which might be temporary, it appeared to him, that it would be of great advantage to the manufactures of this country to be able to procure foreign iron, particularly that of Sweden, on easy terms. Swedish iron was known to be superior to our own; its admixture with British iron would improve the quality of our manufactures; they would be held in higher estimation, and not only be able to command a more decided preference in foreign markets, but become more valuable for all the purposes to which iron was applied in our domestic consumption. Take, for instance, the important article of iron cables,

now so generally used by our shipping; it would not be denied that, by a due proportion of Swedish iron in their composition, their strength and tenacity would be improved. Here, then, an important advantage to our naval interests, connected too with the safety of every ship using iron cables, was directly counteracted by the present high duties on foreign iron. The result of its more free admission, he was persuaded, would be, not only to check those extreme fluctuations, which, of late years, had occurred in the price of iron—at one time so low as to be ruinous to the producer, at another so high, as to be greatly distressing to all the other interests of the country,—but also, by the improvements to which it would lead, to extend the use and consumption of manufactured iron (the bulk of which would always be our own) both at home and abroad. This increased demand, joined to a more steady price, would, ere long, more than compensate to the British iron masters the temporary inconvenience, if any, which some of them apprehended from the extent to which it was proposed to carry the reduction of this duty.—The next metal upon which he had to propose a reduction was Copper. The duty, which in 1790 did not exceed 10*l.*; now amounted to 54*l.* per ton. This high duty was not less injurious to the manufacturer than the high duty on iron. Now if the price of our copper manufacture, were to exceed that of the like articles of foreign manufacture, in any thing like a proportion to this enormous duty, it was evident, that, even assuming some superiority in the skill of our workmen, we must ultimately be driven from the markets of other countries. The quantity of copper produced by the English mines amounted to about 10,000 tons annually, of which something less than one half sufficed for the home consumption. This being the proportion, did not the owners of copper mines see that if, by the high price at which the manufacturer bought copper, he should lose his hold upon the foreign market, they must be injured by the effects of their own monopoly? The annual supply required would then be diminished to less than 5,000 tons; and they would, therefore, run the risk of losing more by the continuance of the present high duties, than by the repeal of them. These prohibitory duties had already, in his judgment, been attended with serious injury. They had prevented copper, not only in an unmanufactured, but in an imperfectly smelted state, from coming into this country. This metal existed in great abundance, not only in several parts of Europe, but also in some of the new States of America. It would have been sent here, as it used to be, in an imperfect state, in payment for British manufactures. Here it would have undergone the process of purifying, of rolling, or of being otherwise prepared for consumption, by the means of our superior machinery, had it not been kept away by impolitic restrictions. They operated as a bounty upon the transfer of our capital to other countries, and as a premium to encourage the inhabitants of those countries to do for themselves that which, greatly to our own advantage, we should otherwise have continued to do for them. At the same time he was aware that considerable capitals had been invested in our copper mines, under the encouragement given by the present monopoly, and how difficult it was to do all that the public interest would require, without injury to those particular

interests. This, in almost every instance, was the most arduous part of the task which a sense of public duty had imposed upon him. In the present case, however, he believed that he might safely propose to reduce the duty on copper from 54*l.* to 27*l.* a ton; without committing himself, not to recommend, at a future period, even a further reduction, if it should appear that the present limit were not sufficient to enable our manufacturers to preserve their foreign market, and that at a lower rate of duty, no great or sudden check would be given to the British mines. There was another metallic substance, in some degree connected with the copper manufacture, the duty upon which ought to be considerably lowered; he meant zinc, commonly known in trade under the name of spelter. This semi-metal entered, in the proportion of about one-third, into the composition of brass. The selling price of spelter, on the Continent, was about 20*l.* a ton, here about 45*l.* and the duty is 28*l.* Now, with a duty upon copper of 54*l.* a ton, and upon spelter of 28*l.* what chance could we have of maintaining a footing in the foreign market for any description of brass wares? None:—and accordingly he was assured that, at that moment, our briskest demand in this trade was in the preparation of moulds and patterns for the foreign manufacturer. Upon spelter, he should propose to reduce the duty full one half. He ought to go still lower, and perhaps he should after making further inquiry, in some future stage; for he was convinced that the mines of this country could not successfully compete with those of Silesia, in which spelter was principally produced. Upon tin, the present duty was excessive. It was an article of which we had more the command, and was of less extensive consumption. He proposed, however, to reduce the duty more than one half—from 8*l.* 9*s.* 3*d.* to 2*l.* 10*s.* the cwt. The duty on lead was now 20*l.* per cent. *ad valorem*; this he proposed to lower to 15*l.* which he hoped would be sufficient to admit of a foreign import, and to check the present exorbitant price of that metal. There were several other enumerated articles in the book of rates, upon which he proposed to reduce the duties upon the same principle. Perhaps, however, he ought to state that although every thing which could, by any accident, be considered as an object of jealousy to any of our manufactures, was enumerated by name in the book of rates, there were other things not directly connected with trade or merchandize, but with art, science, and literature, and deriving their value solely from such connexion, which, whenever they were brought into this country, cost the person who imported them 50*l.* per cent. on their estimated value, under a sweeping clause, at the end of that book, which provided, that upon all goods, wares, and merchandize, being, either in part or wholly manufactured, and not enumerated, a duty of 50*l.* per cent. should be payable, and a duty of 20*l.* per cent. upon all non-enumerated goods, not being either in part or wholly manufactured. Now this duty of 50*l.* per cent., of little value to the Exchequer, and attaching principally upon such objects as he had adverted to, ought undoubtedly to be reduced. The instances, in which this high duty attached on articles of curiosity and interest, were not very numerous; they were sometimes ludicrous, perhaps, but not very creditable to the good taste and character of this country. One instance, which he recollected to have

heard, he would mention. A gentleman imported a mummy from Egypt (a laugh). The officers of the customs were not a little puzzled by this non-enumerated article. These remains of mortality, muscles and sinews, pickled and preserved three thousand years ago, could not be deemed a raw material; and therefore, upon deliberation, it was determined to tax them as a manufactured article (a laugh). The importer, anxious that his mummy should not be seized, stated its value at 400*l.* That declaration cost him 200*l.* being at the rate of 50*l.* per cent. on the manufactured merchandize which he was about to import. He proposed to reduce the duty on manufactured articles, not enumerated, from 50*l.* to 20*l.* and on articles unmanufactured, from 20*l.* to 10*l.* per cent. The result of the alterations, which he had stated to the committee, would be this;—that upon foreign manufactured articles generally, where the duty was imposed to protect our own manufactures, and not for the purpose of collecting revenue, that duty would, in no instance, exceed 30*l.* per cent. If the article were not manufactured much cheaper or much better abroad than at home, such a duty was ample for protection. If it were manufactured so much cheaper, or so much better abroad, as to render 30*l.* per cent. insufficient, his answer was first,—that a greater protection was only a premium to the smuggler; and, secondly, that there was no wisdom in attempting to bolster up a competition, which this degree of protection would not sustain. Let the state have the tax, which was now the reward of the smuggler, and let the consumer have the better and cheaper article, without the painful consciousness that he was consulting his own convenience at the expense of daily violating the laws of his country. When his rt. hon. friend (the Chancellor of the Exchequer) was labouring to put an end, as fast as he could, to the evils of smuggling, by lowering the duties, increased during the pressure of the war, and for the purposes of revenue, upon articles of consumption, the last thing, which they ought to countenance, was the continuance of high duties, not for the benefit of the Exchequer, but for the supposed protection of certain branches of manufacture. Was the illicit importation of foreign spirits to be checked merely to give fresh life to the smuggling of cambrics and lace from Flanders, or of gloves and porcelain from France? He could not think that gentlemen were aware to what an extent all the moral evils of smuggling were encouraged by the prohibition of these comparatively petty articles. Let any one go down to Brighton, and wander along the coast from thence to Hastings; he would undertake to say, that he should most easily find, at every place he came to, persons who would engage to deliver to him, within ten days or a fortnight, any prohibited article of manufacture, which he could name, and almost in any quantity, upon an advance of 30*l.* per cent. beyond the prime cost at Paris. What was the consequence of such a system? A number of families, that would otherwise be valuable and industrious members of society existed, and trained up their children in a state of perpetual warfare with the law, till they insensibly acquired the habits and feelings of outlaws, standing rather in the relation of pirates, than of fellow-subjects, to the rest of the community. And was this abominable system to be tolerated, not from any overruling necessity of upholding the revenue, nay, possibly,

to its injury, but merely because, in a few secondary branches of manufacture, we did not possess the same natural advantages, or the same degree of skill, as our neighbours? If cambrics were made better at Valenciennes, was that a sufficient reason for imposing a prohibitory duty on all linens; a duty from which the revenue got next to nothing, whilst the country was full of the proscribed article? If certain descriptions of paper for engraving were made more perfect in France, were we always to be condemned to the use of an inferior and dearer article of home manufacture? The time had been, when it was found a sufficient reason for imposing a prohibitory duty upon a foreign article, that it was better than we could make at home; but he trusted when such calls were made upon this house hereafter, their first answer at least would be, "Let us see what can be done by competition—first try to imitate, and bye and bye, perhaps, you will surpass your foreign rival." Prohibitions in fact, were a premium upon mediocrity. They destroyed the best incentive to excellence, invention, and improvement. They condemned the community to suffer, both in price and quality, all the evils of monopoly, except in as far as a remedy could be found in the baneful arts of the smuggler. They had also another of the great evils of monopoly, that of exposing the consumer, as well as the dealer, to rapid and inconvenient fluctuations in price. With the knowledge of this fact, that we furnished, in a proportion far exceeding the supply from any other country, the general markets of the world, with all the leading articles of manufacture, upon which he has now proposed greatly to lower the duties, he owned that he was not afraid of this country being overwhelmed with foreign goods. Some would come in, which were now excluded; he should be glad of it. Their admission would be beneficial to the general interests of the country. That it could not be extensively injurious to any of those interests, might be inferred, not only from arguments, but from actual experience. In 1786, we entered into a commercial treaty with France. Under the stipulations of that treaty, the cottons and woollens of France were admitted into this country, upon a duty of 12*l.* per cent.: he now proposed for the latter 15*l.*—Hardware, cutlery, turnery, &c. upon a duty of 10*l.*: he now proposed 30*l.* per cent. Pottery, and glass, &c. under a duty of 12*l.*: he now proposed 15*l.* upon the former, and 30*l.* upon the latter. What was the result of this treaty? We sent goods of various descriptions to the French market, and England was supplied with other goods of French production; but no injury accrued, no check was given to any particular branch of our staple manufactures, in consequence of this interchange. One advantage arising from it was to create a spirit of emulation, an instance of which occurred in the woollen trade. Soon after the opening of the intercourse between the two countries, French cloths of a fine quality were imported in considerable quantity. They were preferred to our own. No fashionable man was to be seen without a coat of French cloth. What followed? In less than two years, the cloth of our own manufactures became equal to that imported from France; the one could not be distinguished from the other; and coats of French cloth were still the fashion, whilst the cloth of which they were

made was manufactured in this country. In like manner, we should now, in all probability, import some printed cottons from Alsace and Switzerland, of richer and brighter colours than our own; some fancy muslins from India; some silk stuffs, some porcelain from France—objects for which curiosity or fashion may create a demand in this metropolis; but they would not interfere with those articles of more wide and universal consumption, which our own manufactures supplied cheaper and better; whilst they would excite the ingenuity of our artists and workmen, to attempt improvements, which might enable them to enter the lists with the foreigner, in those very articles in which he had now an acknowledged superiority. It certainly might be objected, that a great change had taken place, in the situation of the British manufacturers, since the French treaty of 1786, that we had been engaged in a long and expensive war, and that we had now to support the weight of a great many new and heavy taxes. But other countries had not been exempted from the calamities of war; their taxes, too, had been increased; their burthens made to press more heavily. What was still more mischievous, in most of those countries, their commercial and manufacturing establishments had felt more directly the ravages and interruption of war; many of them had been violently swept away; whilst the capitals which they had called forth, if not confiscated, had been impaired or diminished, by the exactions of military power. In this country no such calamity had been experienced. The trading capital of England had remained entire; even during the war, it continued constantly increasing; and in respect to the comparative cheapness of labour in foreign countries, although by no means an immaterial part of the present consideration, it was not alone sufficient, as experience had shewn, to make the balance preponderate in their favour. Since the invention of the steam engine, coupled with the application of so many other discoveries, both in mechanical and chemical science, to all the arts of life, the mere estimate of manual labour was lost sight of, in comparison with that of the creative powers of mind. It was the union of those powers, and of the great capitals which called them into action, which distinguished British industry, and had placed it in the commanding situation which it now holds in the world. To these advantages were joined that energy and continuity of enterprise, that perseverance and steadiness of exertion, which, even by our rivals, were admitted to belong to the English character. It was upon these qualities, and these advantages, much more than upon any system of bounties and protecting duties, that he relied with confidence, for the maintenance and improvement of the station which we now occupied among the trading communities of the world. He expected a further objection—indeed he had already been told, in the correspondence which he had felt it right to hold with some of our most intelligent and accomplished merchants and manufacturers on this subject—that in 1786, we had insured from France, by treaty, a reciprocity of commercial advantages; but that, at present, we had made no such arrangement. This objection, in our respect, deserved consideration. He meant in its relation to the foreign market—with regard to the danger of our being undernourished in our own market, it did not hold at all. Now,

in respect to our deferring any improvement in our own commercial system, until we could persuade foreign states to view it as a concession to them, which we were ready to make in return for similar concessions on their part, he could not discover much wisdom in such a line of policy. Let his *rt. hon. friend* (the Chancellor of the Exchequer) continue his good practice of coming down to this house, session after session, to accumulate fresh proofs, that the removal of restrictive impositions and excessive duties was not diminution, but, frequently, increase of revenue:—Let foreign countries see him, year after year, largely remitting public burthens, and, at the same time, exhibiting a prosperous Exchequer, still flowing to the same perennial level; and he had no doubt, when the Governments of the Continent should have contemplated, for a few years longer, the happy consequences of the system in which we were now proceeding, that their eyes would be opened. They would then believe—although at present they did not—that we were sincere and consistent in our principles; and, for their own advantage, they would then, imitate us in our present course, as they had of late been adopting our cast-off system of restrictions and prohibitions. That they had hitherto suspected our sincerity, and looked upon our professions as lures to ensnare them, was not very surprising, when they compared those professions with that code of prohibition, which he was now endeavouring to pare down to a scale of moderate duties. Having now stated the alterations which he intended to propose, with regard to the protecting and prohibitory duties, he had only to add that, with a view to give the British manufacturer every fair advantage in the competition with which he had to contend in the foreign market, it was desirable to consider how far this object could be promoted, by a reduction of some of the duties now levied upon the raw materials, which he was obliged to use in his manufacture. During the exigencies of the late war, duties were laid or increased, upon various articles used in dyeing. The revenue derived from these duties was not considerable: but, in proportion to the amount of the charge, must be the increased price of the manufactured commodity. Be that charge, upon our woollen cloths, for instance, only 1 or 2 per cent., even this small addition in the present open competition of the foreign market, might turn the scale against us, and ought therefore to be withdrawn. On most of the articles in question, he should propose a large reduction in the existing rate of duty. They were so numerous that he should not weary the patience of the Committee, by mentioning them specifically. To one or two articles, however, not included under the class of dyeing drugs, he must beg leave shortly to refer. Olive oil was very much used in the manufacture of the finer woollen cloths. The duty upon it was somewhat more than doubled during the war. He proposed to reduce it to a rate rather below that of 1790; from 15*l.* 13*s.* the present duty, to 7*l.* a ton. There was another species of oil, extracted from rape seed, largely used in the preparation of coarse woollens, upon which he also proposed to give relief. The Committee might perhaps recollect, that a few years ago, when the panic of agricultural distress was in full force—when fears were openly expressed in that house, that England must cease to grow corn, it was suggested,

that the raising of rape seed might become a profitable substitute; and, upon this suggestion, a duty, almost prohibitory, was laid on foreign seed, which till then had been imported free from any charge. This measure, of which the benefit, if beneficial at all, was confined to a very few districts of the kingdom, had certainly contributed nothing to the revival of our agriculture, but it had in various ways, been attended with detriment to our manufactures. It had greatly injured the manufacture of rape oil and rape cake in this country, and increased the price of the former to the woollen trade. The cake, indeed, being wanted for agricultural purposes, was allowed to come in from abroad nearly duty free; so that, in this instance, and to this extent, our recent policy had been to prohibit the raw material, and to encourage its importation in a manufactured state. He proposed to revert to our ancient policy in respect to this article; and, after giving a certain time to the dealers to get rid of their stock in hand, to allow the free importation of rape seed, upon a duty which would be merely nominal.—The only other article, which he thought it necessary to mention, was wool. The duty was now one penny a pound upon all foreign wool. It had been stated to him, that even this rate of duty pressed severely upon the manufacturers of coarse woollens, in which we had most to fear from foreign competition, and that considerable relief would be afforded by reducing it to one half, upon all wool, not exceeding the value of one shilling a pound. He therefore proposed to make this alteration, by which, he was assured, the quantity of coarse wool imported into this country, to be mixed in the manufacture with our own long wool, was likely to be greatly increased. All these reductions he considered to be right and proper in principle; but, as measures calculated to afford encouragement and assistance to our manufacturers, he was particularly anxious to propose them at the same time, when he was bringing forward other measures, not unlikely, till better understood, to excite alarm in particular quarters. He now came to the last of the three heads, into which he had divided the subject, to be submitted to the committee—the means of affording some further encouragement to the shipping and navigation of the empire. There was already a bill on the table which would contribute very essentially to the relief of that important interest. He meant the bill which repealed all the quarantine duties. They operated as a very considerable burthen, unfairly placed on the particular ships and goods which were compelled to perform quarantine. This was a precaution adopted, not for the special advantage of those engaged in any particular trade, on the contrary, to them the detention and loss of time were great inconveniences, however unavoidable—but for the general protection and safety of the community. The committee of foreign trade was, therefore, perfectly justified in recommending that the expense of quarantine should be borne by the country at large, and not by any particular class in it; and a bill has been brought in accordingly by his *rt. hon. friend*, the Vice President of the Board of Trade. Another measure of substantial relief was, the abolition of fees upon shipping and trade in our colonies. Besides the vexation and liability to abuse, inseparable from the present system, he knew that, in many instances, the fees alone, upon a



ship and cargo, amounted to much more than all the public duties collected upon the same.\* The next measure, which he had to propose, was the repeal of the stamp duty now payable upon the transfer of a whole ship, or of any share in a ship, from one person to another. A ship, he believed, was the only chattel upon which a duty of this sort attached, as often as it changed hands. He could trace no reason for this anomaly, except one, which ought rather to be a plea for exemption. From motives of state policy, the owner, or part owner of any ship, was compelled to register his interest or share therein. From this registry the ship-owner derived no advantage—on the contrary, however improved the forms and regulations now observed, it was at best to him troublesome, and more or less obnoxious to litigation. By consolidating and amending the registry laws, he had done every thing in his power to mitigate those inconveniences, but still every transfer must be registered. Now, to take advantage of a law, which compelled the names of all owners to be registered, in order to attach a heavy stamp duty on every transfer that might be made in the owner-ship, was an unnecessary aggravation of a necessary inconvenience, and in itself a great injustice. He should, therefore, submit a resolution for abolishing the whole of this transfer duty upon shipping, by which he should at once, relieve the owners of this description of property from a partial tax, and from some degree of annoyance. There was also another stamp duty, in respect to which he was anxious to afford relief. He meant the duty on Debentures for the payment of Drawbacks, and on Bonds, given by merchants, for the due delivery of the goods which they had declared for exportation. He proposed this relief, partly, upon the same principle as that which he had stated in respect to the transfer of ships. These bonds were not entered into for the benefit of the merchant, but for the security of the revenue; besides, from their being *ad valorem* stamps, they frequently led to great abuses and perjury. He proposed to reduce these stamps to a fixed duty of only 5s. upon each instrument.—As connected with the same subject—the relief of our commerce and shipping from direct pecuniary charges—he begged leave now to call the attention of the committee to the change which he proposed in the system of our consular establishments in foreign ports. These establishments were regulated by no fixed principle, in respect to the mode of remunerating the individuals employed in this branch of the public service. In one port, the consul received a salary; in another he was paid exclusively by fees; in a third, he received both a salary and fees. The consuls at Havre and Marseilles had no salaries. The consul at Bordeaux had a salary, and was allowed fees. The consul at Antwerp had a salary. The consul at Rotterdam had none. The consul at Stettin had a salary. The consul at Dantzic, none. At Madeira, the consul had a salary; at the Azores, none. The scale of fees, the principle upon which they were levied, the authority of enforcing their payment, and the mode of levying them, appeared to be quite as various and unsettled as the mode of remuneration. In some ports, the fees attached upon the vessel; in others, upon the merchandize. In some

ports, vessels payed all alike, without regard to their tonnage; in others, the fees were rated in proportion to the size of the vessel. In some ports, again, the fees were an *ad valorem* charge upon the cargo; in others, so much per ton upon the freight, without regard to its value. Now, not only all this discrepancy in the details of the same establishment could not be right, and would require revision; but he thought that the whole principle of providing for our consuls, by authorizing them to levy a tax upon the shipping and commerce of the country, was wrong. In the first place, the foreign trade of the country was one of its great public interests, and as much entitled to be protected at the public expense, as far as it wanted protection in foreign countries, as any other great interest. In the next place, in the performance of many of the duties for which consuls were appointed, the ship-owner and merchant had no direct or exclusive interest. The navigation laws, the quarantine laws, instead of being advantageous, were inconveniently restrictive to trade; yet to these it was the peculiar duty of the consuls to attend. They had other essential duties to discharge, in which the merchant and the ship-owner had no interest, distinct from that of the whole community. It, therefore, appeared to him, that it would be just as reasonable to tax English travellers, in foreign countries, for the support of our political missions, by which they were protected, as to tax the shipping or the trade, for the payment of our consular establishments. His object was, to grant to all our consuls fixed and moderate salaries, to be paid out of the public purse; such salaries to vary, of course, according to the importance and responsibility of the station, to the country in which the consul resided, and to other circumstances, which must, from time to time, come under the consideration of the Government. In the civil list, which was granted for the life of the Sovereign, a sum of 40,000*l.* was allotted for the payment of consular expenses. A considerable part of this sum was required for the salaries of certain officers, designated as consuls, but who were, at the same time, diplomatic agents: he meant our residents at Algiers, and the other courts on the coast of Africa, in the Mediterranean. As the remainder of this sum would fall far short of what would be necessary for the payment of the whole consular charge, he proposed that the difference should be voted annually by the house, upon estimates to be laid before it by the proper department. If this change should be approved of by the house, the effect would be the abolition, generally, of all the present fees payable to our consuls, either upon ships or goods, in foreign ports. Certain small fees would still remain for personal acts that a consul might be called upon to perform, such as notarial instruments, and other documents to which his attestation or signature might be required. Those fees would be specified in the bill, and would be reduced to the most moderate amount. In regard to another expense, provided for, in certain ports, by a tax upon shipping—he meant the maintenance of a place of worship, the payment of a chaplain, and other charges of that description, he trusted, that the British merchants and inhabitants residing at, or resorting to, those ports, would find no difficulty in raising, by a small voluntary rate among themselves, a sufficient sum

\* See *ante*, p. 291.

for those purposes. But, as an encouragement to them to provide the means of performing the important duties of religion, he should propose, in the bill, to give a power to the Government, to advance a sum equal to the amount of any subscription which might be so raised, either for erecting a place of worship, providing a burial ground, or allotting a suitable salary to a chaplain, in any foreign port, where a British consul might reside.—Having now stated the outlines of the plan, which he had to propose, for the improvement of our consular system, it only remained for him to mention one other subject, in immediate connexion with it, and certainly of great importance to a very valuable branch of our foreign trade—he meant, our trade to those countries, known under the name of the Levant. This trade was placed under the direction of a chartered company, so far back as the reign of James I. Great privileges were conferred upon that company; and they had also important duties to perform. Among their privileges, they were allowed to appoint all the consuls to the Levant, and to levy considerable duties on all British ships resorting to those countries, for the maintenance of those consuls, and the other expenses of their establishment. They also obtained, partly by acts of parliament, and partly by treaty and concession from the Porte, the right of exercising, by their agents and consuls, a very extensive jurisdiction over all British subjects in the Turkish dominions. These powers and trusts had been exercised, by the servants of the company, for two centuries, often under very difficult circumstances; and generally speaking, with great correctness, fidelity, and discretion. In the present state, however, of a great part of the countries in which these consuls resided, and looking, moreover, to our relations with Turkey, as well as with other powers, to the delicate and important questions of international law, which must constantly arise out of the intercourse of commerce with a country in a state of civil war,—questions involving discussions, not only with the contending parties in that country, but with other trading and neutral powers,—it was impossible not to feel that, upon political considerations alone, it was highly expedient that the public servants of this country, in Turkey, should hold their appointments from the Crown. It was to the Crown that foreign powers would naturally look for the regulating and controlling the conduct of those officers, in the exercise of their authority; and it was certainly most fit, not only on this account, but for the due maintenance of that authority, that they should be named, not by a trading company, however respectable, but, like other consuls, directly by the Crown, advised, as it must be, in their selection, by its responsible servants. If this change, in the mode of appointing the consuls in the Levant, be called for upon political grounds, it would be highly absurd not to take advantage of the occasion to bring them, in all other respects, under the regulations of the new consular establishment. It became the more important not to neglect this opportunity of affording relief to the Levant trade, as the dues, which the company was authorised to levy, were very considerable, amounting to a tax not much short of two per cent. upon the whole of that trade; a charge quite sufficient, in these times, to divert a considerable part of it from the shipping of

this country to that of other states. It was due to the noble Lord (Grenville) at the head of the Levant Company, to state, that, as soon as this subject was brought under his consideration, he manifested the greatest readiness to assist the views of Government in respect to the proposed changes. Nothing less was to be expected from this distinguished individual, who, in his dignified retirement, still interested himself, with the feelings of a statesman, and the wisdom of a philosopher, in the progress of those sound commercial principles, which, in their application, had already conferred so much benefit upon this country. The noble Lord called together the Company over which he presided, and proposed to them a voluntary surrender of the charter which they had enjoyed for two hundred years. In the most praiseworthy manner, the company acquiesced in the suggestion. His Majesty would be advised to accept the surrender so tendered; but it could not be carried into effect without an act of parliament. Among other requisite arrangements to be provided for by the bill, would be the transfer of a fund which the company had accumulated out of their revenue, and the abolition of the taxes by which that revenue was produced.—He had now travelled over the wide field of the alterations, which he undertook to submit to the committee, in the commercial concerns of this country. He wished that his statement, to many members of the house comparatively uninteresting, had been more perspicuous, for the sake of those who had paid attention to this subject. He was desirous to bring it under consideration, before the recess, in order that the details might be dispassionately and generally considered by the several interests, throughout the country, which were likely to be affected by the measures now proposed. They were open to alterations, and to amendment. He should be happy to pay every attention, in his power, to whatever suggestions might be transmitted to him, from any quarter, for that purpose. All he asked now of the committee was, to take under their protection, the comprehensive principle of the system which he had ventured to recommend, and that, so far, they would look upon it as a state measure, connected with the public prosperity. If, to this extent, it should receive their steady countenance and support, the session would not close without their having proved to this, as well as to other countries, that they had not lost sight of the recommendation from the throne—to remove as much, and as fast as possible, all unnecessary restrictions upon trade (hear, hear). He concluded by moving a resolution, “That it was the opinion of the committee, that all duties upon the several articles hereafter to be named, should cease and determine, and others be substituted in their room.”

Mr. Alderman Thompson complained that in consequence of his avowal in that house, that the British iron trade was in no danger from foreign competition, it had been insinuated that he had some sort of understanding upon the subject with the *rt. hon. gent.* Now to this he would reply, that he had, neither directly nor indirectly, communicated with him upon the

\* This Speech is principally re-published from the substance of “Two Speeches, &c. by Mr. Huskisson.” London, Hatchard, 1825.

subject, until he had heard his public statement in that house (hear, hear, from Mr. Huskisson). He hoped that he was not ignorant of his own private affairs, or of his public duty; and on the question of the iron trade, he was prepared to repeat, that he did not think foreign competition (although he admitted its tendency to lower the price) would reduce the value of the article below a fair remunerating price.

Sir H. Vivian admitted the value of many of the new commercial principles upon which government were about to act, although he could not concur in all the details of their operation: for instance, he must protest against the proposed alteration of the foreign copper duties, which, if carried into effect, would ruin the mining trade of Cornwall. There was a capital engaged in the copper mines of above 2,440,000*l.*, which gave employment to from 70,000 to 100,000 people. It was, he thought, capable of demonstration, that if they let in the foreign copper from South America, for instance, upon this trade, the British mines must be ruined, from the greater expence incurred by them in working the material.

Sir M. W. Ridley, though he agreed with the main principles propounded by the *rt. hon. gent.* did not approve of all his details. With respect to the alteration of the duty on foreign bottles, he ought to recollect the peculiar disadvantages under which the British trader in the article laboured from the injurious competition which that trader had of late years endured, from the new calling that had sprung up of dealing in second-hand bottles (a laugh). But if, in addition to this inconvenience, the foreign bottles were to be sent into the second-hand market, then the British manufacturer would be entirely outdone. The article of kelp entered considerably into the manufacture of glass, and the duty was so high upon it at present, that the bottle manufacturers were obliged to make use of Scotch kelp, which was of a very inferior quality. This called for the *rt. hon. gent.*'s attention.

Mr. Baring expressed his satisfaction at the adoption of the leading principles of that commercial system which government now professed to support. He was aware that such great changes could not be effected without materially affecting existing private interests; but this must always occur when they were returning to sound principles. A peculiar service, as it was called, to one interest, led to the same benefit to another, until the whole system became at length artificial and injurious to the community; and what he most approved in the *rt. hon. gent.*'s proposed alterations was, that they went upon general principles, without regarding private interests. Those would of course oppose whatever they thought interfered with their own particular views: for instance, they had already heard claims put in for specific exemption on the part of several manufactures. A gallant officer (Sir H. Vivian) had touched upon the copper trade as being unfairly affected in comparison with others. Upon this allusion, all he (Mr. B.) should at present say was, that so far from thinking copper had been unfairly pressed upon, and particularly in comparison with iron, he thought that the Cornish miners had been knocking at the door of the Treasury, and had succeeded in securing for themselves an unequal advantage (a laugh).

Mr. Littleton expressed the greatest apprehen-

sion for the potteries of Staffordshire, if the *rt. hon. gent.*'s plan were carried into effect. He entreated the *rt. hon. gent.* to allow the hardware trade a hearing before he passed his bills through the house. He had also to complain, in the strongest manner, in behalf of the manufacturers of earthenware. It was well known that the manufacturers had lately made great improvements in the article of ornamental china, which, he feared, would not be able to endure competition with the French upon the suggested plan.

Mr. Gapps dreaded the effect of lowering the duties on woollen goods from 50 to 15 per cent. The British fabrics, burdened with heavier charges in every way, could not compete with the foreign articles; and at 15 per cent., large quantities of woollen goods, especially coarse woollens, must find their way to British consumers. He wished that the *rt. hon. gent.* would begin with lowering them 30 per cent. in the first instance.

Sir E. Fergusson agreed in the propriety of doing away the prohibitory duties: but the proceeding should be of a cautious nature. Every thing should be done to sink the charges of the raw material. How else could British linens, for example, compete with those of Germany, and the new manufactures at New Orleans, both of which must produce them cheaper? He strongly pressed upon the consideration of the Chancellor of the Exchequer the necessity of reducing the duties on hemp and flax, and allowing hemp to be mingled with the poorer flax, to make bagging for bringing home cotton.

Mr. H. Parnell thought, that at 35 per cent. duty, Irish linens would be able to compete with foreign, especially if Irish agricultural produce were admitted free into the English market.

Mr. Huskisson rose to correct an error which had arisen on the subject of copyright. No one could bring in copies printed abroad without being subject to an action for damages upon every copy of a copyright publication. It was true that the works of the "Great Unknown" were printed and sold in every city of Germany and France. He had seen them at Frankfurt in every bookseller's shop. But there could be no danger from this circumstance to the property of a copyright. With respect to other books, it was not for the interest of literature, or for the advantage of genius, that books should be kept out of the English market, because they could be printed cheaper abroad. All that could be asked would be an equivalent for the superior charges to which the British trade was subjected by the tax on the materials.—With respect to the duty on copper, concerning which some apprehension had been expressed, as if he threatened to return to the same subject next year, he had been mistaken. His meaning was, that if the price of copper should be kept up by the 5*th* duty, and the market continue closed against foreign copper, that then the duty must be lowered still further, until the foreign copper could enter the English market; and he was convinced that this would prove beneficial to the mining interests of Cornwall.

Mr. W. Beane thought that the manufacturers of iron of the first quality might be injured by this change of duty; but it would have the effect of improving the manufacture of iron of the lower quality. Although this alteration

as in other cases, might be productive of some partial loss to individuals, yet to the public it would produce an enormous advantage.

Mr. J. Bennett trusted there would be no objection on the part of Government to repeal the existing duties on the export of wool (bear); and he hoped, also, that the duties on the export of yarn would be lowered. At present, the export of yarn was very considerable, but that of wool was but trifling. He thought, also, that with a proper regard for the landed interest, the duty on imported corn might be safely lowered to precisely the ratio of difference between the expense of cultivation in this country and abroad; but it should not exceed that ratio.

Mr. Hume asked if it were the intention of Government to adopt any alteration in the timber duties? The rt. hon. gent. had stated his intention to alter the duty on imported Canadian corn—a change which he (Mr. Hume) highly approved of; and since these facilities had been given to the trade with that province, he thought the present time would be a very proper one for the reduction of the duties imposed for the protection of the Canadas on foreign timber (bear, hear).—He would take this opportunity to say, that highly beneficial as the discussion of that night must be, and important and valuable as the alterations of duty were that had been already proposed, all that had been done on this occasion would be as nothing to the people of England, compared with a careful and proper revision of the corn laws. He hoped, therefore, that his Majesty's government would forthwith take into their consideration the important benefit to be derived by the public from a change of system in this particular. As to the amount of the duty to be settled, provided only the legislature would establish sound principle on this important question, he cared not whether it were a duty of 10s. of 15s. or of 20s. per quarter. Being once in the right path, they would soon come to the proper scale of duty.

Mr. Huskisson reminded the house that he had not said one word to-night on the subject to which the hon. gent. (Mr. Hume) had just alluded; and he did not intend to do so (bear, hear). As to what had been said by the hon. member (Mr. Bennett), he thought there would be no objection to some such arrangement about the duty on wool as the hon. gent. proposed. As to altering the duty on yarn, however, he should feel considerable difficulty; for yarns, under the present duty, went out of the country to a large amount. As to the iron trade, which another member had spoken about, the fact was, that the present duty on old iron was 17s. 6d. per ton. This sort of iron was that which in the trade was known by the designation of scrap iron, and the duty in question he should propose to reduce to 12s. 6d. a ton. If he were to make too great a difference between the duties on the two sorts of iron, there would be an endeavour to bring all the species under the operation of the duty affecting this inferior description. With regard to the timber-trade, the hon. gent. (Mr. Hume) must recollect that Canadian timber, considering that it grew in one of our own colonies, and was therefore transported in our own ships, was a valuable trade to Great Britain: and as a further argument why the existing duties should not be further reduced, he would observe, that there was no trade which, by reason of increas-

ed demand, had lately attained a more improved and prosperous condition than the trade in Baltic timber.

The house then resumed, &c.

FRIDAY, JUNE 17.—The house having resolved itself into a committee on the Consolidated Custom Duties bill,

Mr. Huskisson begged to remind the committee of his motion on the 25th of March last, tending to effect important changes in our system of duties and customs, and applying, not only to the manufactures of this country, but to manufactured articles imported from foreign states. In effecting such extensive alterations in a system which had existed so many years, he had felt desirous of availing himself of all the light and experience that could aid him in so arduous an undertaking; and he had accordingly invited the suggestions of all practical and intelligent men who might be willing to afford him the benefit of their counsel and information. That invitation was very generally accepted, and no person, he believed, who had filled his situation, had ever been engaged in a more extensive correspondence than himself, had received more numerous deputations, or had been a party at more conferences than he had received and met at the Board of Trade since those alterations were first announced in parliament (a laugh). The committee would not be surprised to hear this, because it must be evident that many individuals, and many separate interests, would be seriously affected, or would consider themselves to be so at any rate, by the operation of such changes. Having now, therefore, heard, as he might assume, all that could be said upon the subject of those alterations by all parties interested in their operation; he now came to indicate to the committee how far he had subsequently modified those resolutions which he had introduced on the former evening. The alterations he had propounded to the committee in the beginning of the session were founded upon the best information he could obtain, and the most mature deliberation he could bestow upon the subject; and in the most extensive branches of our foreign manufactures and commerce he had been able, upon the result of all the increased knowledge that he had arrived at in respect of them, since he first proposed the alterations of duties in question, to adhere to his original resolutions. In the great article of all, for example,—foreign manufactured cotton goods,—he did not mean to propose any alteration, but should reduce the old duty to an *ad valorem* one of 10 per cent. He proposed also to adhere to the duty of 15 per cent. on woollens; and the proposed duties upon all metallic substances would remain unaltered, excepting in the article of lead. After much inquiry concerning the variable price of that metal, which was so essential in many branches of domestic improvement in this country—as in building, for example—he should propose a further reduction of the duty than that he had already submitted. In the extensive article of earthenware, he proposed to retain the duties on the footing already recommended. But in the duties upon some other branches of our manufactures, he had deemed it necessary—but not without considerable regret—to introduce some modifications. There were some branches of our linen-manufactures on which he had originally proposed an *ad valorem* duty of

25 per cent.; but upon which, after having since heard the representations of all the parties who had been examined before the Board of Trade upon the subject, he was now disposed to think it might be expedient to change that duty. There were several circumstances connected with this particular manufacture that were necessary to be taken into consideration—such as that in Ireland it was conducted by manual labour alone, he might say, without the intervention of any machinery. In respect of linens, therefore, it might be described as a competition between labour and labour that must subsist between those which were made at home and those which were manufactured abroad. But again, with regard to Ireland, the interests of which every hon. gent. must look to with peculiar anxiety and favour, it was to be observed that a great change was effecting in her linen manufacture, for machinery was now rapidly introducing itself into that branch of her trade, and a great proportion of capital was coming gradually into circulation in that country; and had the foreign manufacture been admitted at the lower duty which he had originally proposed, it was feared that many impediments might have opposed themselves to the progress of the improving commerce; the consequence of which would probably have been that, losing its present advantages, the Irish linen trade might never have been able to meet its foreign competitors; that this manufacture would not only not have arrived upon any favourable terms in other markets, but might have been lost to Ireland altogether—(hear, hear). It seemed to him, therefore, that by the adoption of a scale of duties on linens, to be lowered in the course of eight years from their present amount to the point he had formerly fixed, the committee, without discouraging the capital now engaged in that branch of our national industry, might enable the home manufacture to rival, in a short period, the foreign, in the foreign market. He had thought proper to suggest a further alteration of duty on glass. That article was subject to a heavy excise. He should propose a similar alteration in the duty on paper. That manufacture was also subject to excise duties. There were some circumstances that operated materially on the manufacture and price of foreign paper, the most important of which was, that in some cases the exportation of the raw material to this country was virtually prohibited. For example, the exportation of rags was entirely prohibited by the revenue laws of France and of the Netherlands. The consequence was, that its exportation being forbidden, those countries could manufacture paper cheaper, whilst we manufactured it, perhaps, dearer than any other people. Another article to be noticed was the importation of books. At present, no books could be imported of which there was a copyright in this country, or which had been published in Great Britain within twenty years; though individuals were not prevented from bringing them into this country, if they were not for the purpose of sale, but for private use. But he thought it would not be prejudicial to the bookselling interest, if, instead of continuing the heavy duty at present payable on imported books, 6*l.* 10*s.* per cwt. he named a lower one; and he had therefore determined to reduce it to 1*l.* This duty operated, at present, upon those books which formed

the bulk of almost every library; and the reduction, therefore, might tend, perhaps, in no inconsiderable degree, to advance the cause of literature, and the diffusion of knowledge. Not to weary the committee, he would pass over altogether a great variety of articles, comprising amongst others the raw materials of several manufactures; which he had also made the subjects of similar alterations of duty. On flax and tallow he proposed to effect a still further reduction. He had proposed to lower the duties on barilla by a scale of gradual reduction; but he had since learned from the parties interested in its importation, that when about two years ago some alteration was made in those duties, it was understood that no further change would be made in them for five years after that period. He should now suggest that after the five years had elapsed the proposed system of reduced duty should be acted on. Other duties that it was highly material to the public convenience to alter, were those on timber. It had been found impossible to prevent the duties on timber from being evaded. The timber duty upon every 1,050 cubic feet was 55*s.*; and 4*l.* upon every 125 planks. Now, people had lately contrived to cut the planks of such a size and thickness, that one of them, though it could not be measured as solid timber, would afterwards yield many planks; a plank of this thickness, therefore, would only pay a duty of 16*s.* 8*d.* perhaps, which was to all intents and purposes, as to the duty, solid timber. He should therefore propose such an alteration as would bring planks of these large dimensions within the description of solid timber. Upon revising the alterations suggested in the resolutions which he had formerly submitted, he had added a great many articles. Among the important ones was a reduction on the duty of ships built in the colonies, if broken up here. By a strange oversight of the law, such ships were subject to a duty of not less than 50 per cent., if broken up in this country. This duty was the cause that a very large and unwieldy ship, that had been built at Canada, and had arrived some time since in the port of London, was not broken up here, as was intended, but sent back to Canada. That duty he proposed to reduce to 15 per cent. The duty on pepper was at present about 500 per cent. on the value—an enormous disproportion that must effect either a diminished consumption or be an incentive to smuggling. The original cost was about 5*d.* per lb. The whole consumption of the united kingdom was not more than 1,200,000 lb. a-year, which did not exceed a proportion of about an ounce and a quarter to every individual of our population. This duty he would reduce from 2*s.* 6*d.* per lb. to 1*s.* This arrangement he should hope would rather encourage the consumption of an article of East India produce. At present he would only add, that the committee was not to be considered as coming to any final adjudication on all the reductions that it was proposed to effect in our present system of duties.

Sir H. Parnell said, that he did not see the necessity of so high a rate of duty as that contained in the schedule being imposed for the protection of the cotton manufacture. While they had extensive capital, and a great variety of machinery in the manufacture, the idea of competition with this country was futile. They paid high wages, they also paid a duty on the

raw material; but still, such was the perfection of our machinery, that foreign nations could not compete with us. It was a mistake to argue that high wages were always productive of high prices—a position which the late Mr. Ricardo had successfully combatted. After mentioning many other items, in which he conceived a further reduction of duty might have been effected, he observed that he was anxious to make way for the thorough reform in our commercial system which he hoped would speedily be effected, and which, he was sure, would tend greatly to the extension of our manufactures. In the *rt. hon. gent's* plan, however, many articles were burdened with duties which should have gone entirely free. For instance, bacon, butter, beef, and pork, were marked down at a certain rate of duty. He had hoped, as new circumstances had arisen, as new principles had been promulgated, in consequence of the labours of Mr. Ricardo and others, that this part of the subject, which was connected with a rise in the price of food, and a consequent rise in the rate of wages, would be treated in a more liberal manner. Nothing was so impolitic as to lay heavy duties on the necessities of life (hear, hear). If more of the heavier duties had been removed, there would have been no necessity for the bill which had been introduced for the prevention of smuggling. One of the clauses contained in it was as bad as the Irish insurrection act. He alluded to that which related to lurking, after sun-set, near the sea-shore. For this offence, a man might be taken into custody; than which nothing could be more oppressive. If the schedule of duties were put on a proper footing, there would be no necessity for any provision of this kind, since there would be no temptation for smuggling. He should make no further observations on the plan of the *hon. gent.*; but he hoped he would, as fast as possible, proceed with the repeal of those laws, which fettered the commerce of the country.

Mr. *Mackery* thought that the *hon. bart.* had not treated the plan of the *right hon. gent.* fairly. He had argued it on the general principle, instead of looking to the practicability of the proposed alterations. Of course the *rt. hon. gent.* could not immediately say what amount of relaxation should ultimately be extended to each manufacture. That would take up more than one, two, or three years. The *rt. hon. gent.* had submitted his plan in March last; and now, three months afterwards, having, in the meantime, given the question every consideration in his power, he stated to the house what he conceived to be at present a fair relaxation. It was entirely a question of expediency as to the time when, and the extent to which, those different duties should be reduced. The *hon. bart.* had objected that linen was to be protected by a duty of 25 per cent. But when he noticed this, he should have stated what the present protecting duty was. It was 100 per cent., and that was to be reduced gradually to 25 per cent. Now, in removing this protection, what course had the *rt. hon. gent.* taken? He saw that the manufacture involved the interests of many parties, and therefore he found it expedient to relax the protecting duty by degrees, and eight years were given for that purpose. The *rt. hon. gent.* had placed but a small protecting duty on the cotton manufacture, in consequence of the extensive use

of machinery in that trade. That, however, was not the case with the linen trade. But it was hoped, that in 7 or 8 years, by the introduction of machinery, this fabric might be manufactured thirty or forty per cent. cheaper than at present, and therefore this course had been taken. Time ought to be given for this plan to be carried into effect, especially as the application of machinery to spinning flax must, of necessity, be much more slow than its application to the spinning of cotton. It was considered, by competent judges, that, when the plan was matured, the linen manufactured by the aid of machinery, would be 60 or 70 per cent. better than that manufactured in the ordinary way. The *hon. gent.* concluded by pronouncing an eulogium on the Board of Trade. The *rt. hon. gent.* who presided over that important department, and whose labours were gratuitous, ought, he conceived, to be liberally rewarded for the performance of his duties in that office, and not, as at present, derive his salary from another and a subordinate situation (the *Treasuryship of the Navy*), where his duty was scarcely more than that of a paymaster. He trusted the Chancellor of the Exchequer would take the case of his *rt. hon. colleague* into serious consideration (hear, hear).

Mr. *C. Ellison* recommended a reduction of the general duty on coals, and on the exportation of coals from the port of Newcastle.

The *Chancellor of the Exchequer* said he had not overlooked the subject alluded to by the *hon. member* for Newcastle, but the difficulties which stood in the way had prevented him from doing as much as he had contemplated. A great reduction had, however, been effected; the duty on coals carried coastwise, had been reduced to 3s. per chaldron, and to 1s. per chaldron on coals of particular dimensions. He had been told that this latter sort of coal, being unable to bear the duty, was consumed at the pits' mouth, and in fact almost wasted. He was induced to diminish the duty on this account, and because he thought it might be made very useful in manufactories, and as fuel for the poor classes of the people. He flattered himself with the hope of carrying the principle on which these alterations were made, still farther, but he could not do so until the result of the present experiment had been ascertained. He was afraid of having too many irons in the fire, lest he should not be able to get some of them out. He trusted that the day would soon arrive when no article in the schedule would stand at too high a duty for the commercial interests of the country. In the mean time he thought his *rt. hon. friend* (Mr. *Huskisson*) had done as much as could be expected in one session (hear, hear).

Mr. *Hume* wished also, that instead of the duty on non-enumerated articles, there should be a power in the Privy Council to impose such duties as circumstances should hereafter suggest.

Mr. *Huskisson* would be happy to adopt the suggestion of the *hon. member* (Mr. *Hume*) of vesting a discretionary power in the Privy Council; but the *hon. member* was aware that the House of Commons was always extremely jealous of adding to the prerogatives of the Crown. When the house recollected all that he and his *rt. hon. friend* (the *Chancellor of the Exchequer*) had done, extending the principles of free trade within the last two sessions more than had been done for a century before, he thought they ought not to be found

fault with if they had not adopted every suggestion which had been thrown out.

The report of the bill was ordered to be brought up to-morrow.

(This bill was afterwards moved in the House of Lords, by the Earl of Liverpool, but excited, in its progress, no discussion of any interest.)

### *Oil Trade.*

**FRIDAY, MAY 6.**—The Hon. W. Gordon presented a petition from the owners of shipping (employed in the whale fishery) in Aberdeen. They prayed that the duties might be continued that were now levied on foreign oil imported into Great Britain. The bounties having been withdrawn from our own fishery, and the duties now in force upon the importation of foreign oil being about to be withdrawn also, it was obvious that the effect of all this upon our own oil-trade must be most injurious, although it had formerly been deemed the best policy of Government to protect it as a trade that provided the best nursery for our seamen.

Mr. Huskisson said, if he were called upon shortly to state the absurdity of the existing system on which this trade was established, so far as regarded the payment of duties, he should state it in this manner—that we imposed a duty on the importation of an article, for the production of which we allowed a bounty. Now as the bounty was withdrawn on this article, the duty ought to be remitted; or if retained, retained at the lowest rate possible. With respect to what had been said about the duty on foreign rape-seed, he could assure hon. gentlemen, that that duty never had been imposed with any reference to the whale fishery. It was imposed during the severest pressure of agricultural distress, at the suggestion of some gentlemen, who, thinking that the whole land of England was going out of cultivation, endeavoured to devise means for retaining it in culture, and proposed the cultivation of rape-seed with that view; but he did not believe that the two descriptions of oil that had been alluded to were used for the same or similar purposes.—Whale-oil was employed for the purpose of burning, &c.; rape-seed-oil, for dressing cloth. Probably, indeed, at times, the one might happen to be so dear that it might be necessary to use the other as a substitute for it; and thus it was represented as one of the grievances of the cloth trade, that whale oil had been used instead of rape, to the great disparagement of the manufacture, but in consequence of the dearness of rape-oil. However, he agreed with the hon. member for Hull, that the proposed arrangement in respect of the duty on imported foreign oil should be so managed as to bear with the least possible severity on individuals in that trade. He had imagined that by allowing till next January, he had afforded a sufficient time for this purpose; but perhaps it might be beneficial to reduce the duty in January next only one half, and the remaining half in six months afterwards.

Mr. Hume stated, that in consequence of the alarm that had been excited in this trade by the approaching remission of the duty on imported foreign oil, oil had within these few days fallen 5l. per ton. He agreed with the rt. hon. gent. who had just sat down, that nothing could be more absurd, than that a duty of this kind should ever have been imposed at all: but he recom-

mended, under all circumstances, that the whole duty be continued until January twelvemonth, as in the mean time fresh cargoes would have been received that might be disposed of probably with advantage to the trade.

Mr. Frankland Lewis, as chairman of the committee in which this duty was originally proposed, disclaimed all concurrence in the proposition. He had been asked to bring in the bill, but had refused to do so; and was now rejoiced at the conduct he had pursued on that occasion. The petition was then read.

### *Exportation of Machinery.*

**THURSDAY, FEB. 24.**—Mr. Hume moved for the re-appointment of the committee on the exportation of machinery. This was a question of great importance. The custom-house officers declared, that it was impossible to carry the law, as it now stood, into effect; they were unable to determine, in many cases, what was, and what was not, a prohibited article. Machinery was now smuggled out of the country to a very considerable amount. France encouraged this practice as far as she could; and we ourselves sustained a loss of revenue by it. Again, the grossest errors of judgment had been committed in the selection of articles to be prohibited. He was informed, that a great number of instruments forbidden to be exported, on the plea of great nicety being necessary to construct them, were, in fact, so simple, that they were made by boys only, and learners in the trade. The prohibition, as it existed, produced an immense loss to individuals. One machinist alone, Mr. Bramah, of Piccadilly, had lost 100,000l. which he might have gained, if he had been allowed to export his hydraulic presses. He had no doubt that he should adduce, in the committee, such evidence as would convince the most scrupulous minds of the propriety of repealing the present restrictions; for, however desirous he was that the measure should be carried, he would not wish it to be carried in despite of a universal prejudice.

Mr. Huskisson rose to give his support to the motion. He admitted, that where laws were in existence, which were evaded in every possible way, the propriety of their continuance might be doubtful. Satisfied as he was, that an adherence to the strict letter of the law would be injudicious, he had taken it upon himself to advise the permission to export certain articles of machinery, such as hydraulic presses, and some other machines of that description. So great was the present demand for machinery, in many branches, that the orders now in hand could not be executed for many months to come, with all hands that could be procured; and some establishments were completely at rest from a dearth of labour. He would observe in conclusion, that without pledging himself to support the whole of what the committee might recommend, he cordially concurred in its appointment; and he hoped, that the hon. mover would take an active part in endeavouring to ascertain what were, and what were not, the interests which might be affected by the bill.—Committee appointed.

**TUESDAY, JUNE 14.**—Mr. Littleton had a petition to present, which was entitled to serious consideration, from the artisans of Nottingham, against the repeal of the laws which prohibited the exportation of machinery. The hon. mem-

ber read long extracts from the petition, which, he stated, to have been drawn up by the petitioners themselves, and as affording an admirable proof of their intelligence and reasoning powers. It stated, with great circumstantiality and clearness, the history and progress of machinery in this country, and the immense advantages which its exclusive possessions conferred on this country; advantages shared by the agriculturists, as the manufacturers were thence enabled to purchase their produce at a much higher rate than they would otherwise have done. If the law which had operated hitherto with so much advantage were now to be repealed, the country would have to rue such an experiment, for it would necessarily drive artisans to accompany their machinery to foreign states, as a residence in their own country, with the necessities of life at a high price, and exposed to foreign competition, which such a measure would unavoidably increase, would become impossible. The hon. member enforced the prayer of this petition, and thought, that if any alteration of the law were intended, it ought to be left in the power of the Board of Trade to licence or prohibit the export of particular machines.

Mr. *Huskisson* entirely concurred in the serious nature of the subject. But the continuance of the old laws, to which the artisans attached so much importance, was inconsistent with the more liberal policy in trade which the country had recently adopted. Still, however, he would by no means recommend any serious alteration, without hearing the opinions of those practical men who ought, perhaps, to be the best judges of what seemed most likely to affect their interests in several trades. It would be well for the committee to hear all the information, which practical men were capable of affording upon the subject, and then they could enlighten each other on the general topics which such a consideration involved. He would press on the notice of the house, that they had to a great extent acted upon the principle of the free circulation of labour, and it would be difficult as well as inexpedient to make a stop in the case of machinery, particularly when the law of patents in this country so nearly resembled that in France and the Netherlands, the countries of which the artisans were most jealous. When an artisan took out a patent in England, he mostly provided himself with the same safeguard in these two states. He was disposed, considering the great alarm which pervaded the manufacturing interests on this subject, to treat the matter with as much caution as possible, and by no means to act without further and fuller inquiry. He could not, however, concur in his hon. friend's recommendation of referring the subject to the Board of Trade; that Board had already more than enough business on its hands; not to mention, that the proposed function would be one for which, as at present constituted, they were totally unfit.

Mr. *Hume* said, that all parties should be fully heard before the law was altered, although nothing had occurred to alter the opinion he had long formed, that these laws should be made to partake of the general improvement in the principles and policy of trade. Still he meant not to press a repeal, in the present state of alarm. When they went into the inquiry respecting the causes of the advancement of the national trade, he apprehended it would be

difficult to sustain the opinion that the improvement of machinery was entitled to the exclusive place in which some artisans had placed it. It was, however, remarkable that no artisan was found to deprecate universally the export of machinery, so that steps might be taken to classify such articles for which an embargo was unnecessary. It was also desirable to ascertain how far it was in the power of the Custom-house officers to execute these prohibitory laws; for those who evaded them could transmit the machine in different parts, and from different ports, in forms very difficult of detection. For instance, steam-engines could be exported; and when these were sent out in separate parts, other machines could be with equal facility sent out with them. He wished artisans to consider how many thousands would obtain a livelihood in the manufacture of machines for exportation. The Board of Trade could now, contrary to law, give permission to export certain machines: this power should be legalized, and made more general. The committee would report in the present session, and early in the ensuing, might consider what further steps they ought to take.

Mr. *Baring* entirely concurred in the propriety of pausing while so much alarm existed; still he thought that nine-tenths of these machines might be exported without detriment to any British manufacture. At all events, a discretionary power might be left somewhere, to permit what ought to be exported, and what ought not. It could no where be assigned with greater advantage to the country than to the Board of Trade, the arduous duties of which were so ably and beneficially discharged at this time by the President and Vice-President.

Mr. *Lawley* was convinced that the manufacturing interests would approve of such a proposition, from the manner in which they always found their business had been attended to by that Board.

Mr. *Phillips* praised the conduct of the petitioners, and strongly recommended their opinions to the consideration of the house. He was sure it would answer every purpose, to except from the prohibition such machines as could with safety be exported.

Ordered to be printed.

### *Navigation Laws.*

WEDNESDAY, JUNE 22.—Upon the question of the third reading of the Consolidated Custom Duties bill,

Mr. *Robertson* took occasion to call the attention of the house to the great decrease of shipping in this, and its increase in other countries, in consequence of the changes in our old navigation laws. From papers which were printed and before the house, it appeared that the increase of foreign shipping engaged in the Baltic trade with us, since the removal of those restraints which formerly existed, was no less than 150,000 tons; and the decrease of British shipping trading to the ports of those vessels was 28,000 tons (hear). The major part of the foreign commerce of this country, which formerly was confined exclusively to British bottoms, was now transacted in foreign vessels (hear). That trade now employed British shipping, 660,000 tons; foreign ditto, 680,000 (hear, hear). Only twelve years ago, what would have been thought of a statement that such was the condition of our trade? How would gentlemen



have been alarmed if it had been stated that our foreign commerce was carried on by vessels of other nations than our own (hear, hear)? It was true that our coasting trade was flourishing, and, including that of Ireland, employed a tonnage of near 1,000,000 tons. But the trade with the United States exhibited alarming appearances: we had only 42,000 tons employed in it, whilst the Americans had 126,000 tons. Let it be remembered that the United States possessed an equal share with ourselves of the trade with the Continent; with a large coasting trade carried on in her own vessels upon her own coasts. If the *rt. hon. gent.* who so warmly advocated those fatal alterations in our commercial policy had wished to devise a project the most hostile to the future welfare of our trade, he could not have hit upon a more efficient one. He had been forcibly impressed with this truth the other night, on hearing the *rt. hon. gent.'s* (Mr. Huskisson) speech, on the Customs' Bounties bill. It appeared from that speech, that we imported from the Baltic, flax, hemp, and timber, charged with duty: the two first our manufacturers converted into canvass and cordage. We allowed them a bounty on the exportation of that cordage and canvass to foreign ports, where they would be used for the rigging and equipment of foreign ships. Whilst the same manufactures, if employed for the use of our own shipping, were charged with a heavy duty (hear, hear). The same inconsistency was observable in respect of the timber trade. The Government had imposed a duty upon the importation of timber of which our ships were built, while in our own ports, to foreign vessels built with timber that had paid no such duties, they gave equal advantages, and placed them on an equal footing with our own; thereby putting British vessels in a worse situation than the others. Was there any possibility of our competing with them under these circumstances? The fatal effects of the new order of things might not, perhaps, be much felt for some years; but supposing this increase in foreign shipping, and decrease in our own to continue, and the trade of the United States to go on enlarging itself, what was to become of us in the event of a war? Our greatness depended on our navy; and in the decay of its strength was involved the failure of our own (hear, hear). In the same spirit the *rt. hon. gent.* had said on a former evening, that if our seamen chose to enter into such combinations as some of them had engaged in recently, we must employ foreigners; and that if the shipwrights persevered in similar connexions, our merchants must take up foreign shipping. How would our ancestors have spurned a proposition like this!—He sat down with seriously requesting every *hon. gent.* to reflect on the actual state of our naval resources (hear).

The bill was then read a third time and passed.

THURSDAY, JUNE 23.—Mr. *Huskisson* on moving the third reading of the *Ships' Registry bill*, said he had two clauses to propose by way of riders. It was well known that by the navigation laws, as they now stood, British ships were not allowed to repair in foreign ports, unless the master or owners declared that such repairs were absolutely necessary for the safe performance of the voyage; and then the repairs were limited to what was barely necessary for that purpose. It was also a part of these laws that no British ship should proceed on

a voyage, out or home, unless three-fourths of her crew consisted of British seamen. These were regulations which he did not wish to destroy; but circumstances were now in operation, which rendered the enforcement of these provisions injurious to the commerce of the country. At this moment the merchant service, particularly in the port of London, were put to great inconvenience, by combinations among the shipwrights, not relating to wages (for with those the men were satisfied) but from an objection taken by them to particular regulations in the yards. The consequence was, that for some months past no ships were repaired in the river. He was the last man to propose any measure which might be an infringement on our navigation laws, but those laws would be injurious, if allowed to prevent the remedy of so great an evil as that to which he alluded. It was the duty of the legislature to show the workmen, who thought that they must succeed, as they had the power of refusing to work, that this evil might be remedied by allowing ships to proceed for repair to some foreign port. They imagined, that as the law now stood, they must succeed, and indeed he had heard of its being declared amongst them, that the present struggle should be a trial between capital and physical strength. He would therefore propose a clause—that for two years the King in council should have the power, on representation of the inability to obtain repairs in a British port, owing to any combinations among shipwrights, to allow British ships to be taken for repairs to a foreign port. This, he had no doubt, would teach those deluded men that they were injuring only themselves, and that no conduct of theirs could deprive the merchant service of protection. A species of combination no less injurious to our commerce prevailed among merchant-seamen, particularly in the northern ports, in Shields, Newcastle, and other places, by which vessels were prevented from going to sea from want of a sufficient number of British seamen. To remedy this, he would move another clause—giving power to the King in council, on proper representation, to allow British ships to clear out from our ports with a larger portion of their crews consisting of foreigners than was at present allowed.

Mr. *Ellis* concurred in the proposition, and only regretted that the principle was not carried further, by making the law general; for he could not see on what ground British merchants should be prevented from taking their ships to any port where they might get them repaired at the cheapest rate. As to the combinations among the merchant-seamen, he thought it would prove a benefit to the country; for at present many ships were principally worked by apprentices, which, in the course of a few years, would add greatly to the number of able seamen.

Mr. *Robertson* said, that the course now proposed would have the effect of driving our shipwrights to America, from whence we should not be able to recall them in time of need. In the same manner it would affect the seamen. It was intended to increase the competition with our seamen by enlarging the permission to employ foreign sailors in British ships. By some recent measures, the ships of all nations were permitted, in a great degree, to come into competition with our own; and these, which would have the effect of preventing the merchant from paying the sailor the wages to which he was accus-

tomed, were to be followed up by an enactment which would drive him out of the service altogether. He would willingly enforce the combination laws, and put down all attempts to procure higher wages by such illegal means; but he could not shut his eyes to the fact, that the working classes, the mechanics and artisans, were badly treated by the legislature. There seemed a disposition in the house to grind and oppress those people (cries of no, no). He repeated the assertion. The recent measures by which the trades of the Continent were allowed to enter into competition with our own, had no other tendency. The effect of these impolitic regulations had already been felt in the diminution of the carrying trade. The tonnage of the British vessels which sailed from our ports had been considerably reduced. It was less this year by some hundred thousand tons than it had been some few years back.

Mr. *Hume* said that the hon. member had mistaken the principle of the proposed clauses. Their object was to put down those pernicious combinations which tended so directly to injure the commerce of the country, by taking away an undue advantage afforded, by law, to the men. Let all parties have the same protection. For his part he was only sorry that the clauses did not go farther, and allow merchants to resort to foreign ports to build ships as well as to repair them. This would effectually teach those "clubs" and "unions" that their associations would in the result be highly injurious to themselves.

The *Chancellor of the Exchequer* said, that a few facts would tend more to elucidate this subject than all the wrath of the hon. member who had stated, that in consequence of certain measures, there had latterly been a decrease in the number of British ships which cleared out from our ports. Now it appeared from a statement before him, that in 1817, there cleared out from the ports of Great Britain 9,593 British ships; since which time they progressively increased, and in the year 1825, so disastrous to British commerce and shipping, the number of British ships which left our ports was 11,731. The tonnage of British ships was greater last year, than in 1818, by 296,800 tons (hear, hear). In the year ending 1823, there were built and registered in our ports 780 merchant ships, measuring 67,144 tons; in 1823 the number built and registered was 847, burden 86,028 tons; and in the last year there were built and registered 1,011 ships, exceeding in the whole 100,000 tons. If this was ruin and destruction, might such destruction go on (hear).

Mr. *Bright* opposed the clauses, which, if necessary, should be made the subject of a separate measure, and not introduced in a bill with which they had no natural connexion.

Mr. *Ellice* expressed a hope that the right hon. gent. would, at no distant day, admit the principle of allowing merchants to repair their ships where they could get them done best and cheapest, as a general measure. There were now combinations of workmen, but there were also combinations of master shipwrights; and these were as bad for the merchant service as those of the workmen.

The clauses were then read a first, second, and third time, and agreed to.

The bill thus amended was passed.

MONDAY, JUNE 27.—Mr. *Denison* wished to ask the right hon. gent. (Mr. *Huskisson*), a

question of very great importance to the foreign trade of the country. Whether it was allowed to the ships of a different nation to import into this country the produce of another country? Whether the produce of one foreign country could be legally imported in ships of another, for consumption here?—For instance, whether a Swedish ship would be allowed to take a cargo to the Mediterranean to sell it there—and having taken in another lading in a French port, to bring that lading to this country? If that were the law, he conceived our merchants must labour under a considerable disadvantage; because the foreign vessel could be fitted out at much less expense than a British vessel.

Mr. *Huskisson* said, that ever since the Navigation laws were passed in the reign of Charles II., foreign produce was allowed to be imported into England, in ships of the country to which the articles belonged. There were some bulky articles to which this provision did not extend, such as timber, masts, tar, and several others, which were termed the enumerated articles. By an act brought in by Mr. *Wallace* in 1822, the enumerated articles were placed under a new provision. They might now be brought from the countries where they were grown in the ships of those countries or in British ships; and from any other countries where they were not grown, in ships of the countries where they happened to be so deposited. Thus masts could not be brought hither from Russia except by Russian or British ships; but if those masts found their way to Holland, or any other country in Europe, and were landed there, they might be brought to England in the ships of that country, or in British ships. Prior to the act of 1822 those enumerated articles could not be imported except in ships of this country. The general provision of the act of Charles II. was, that no article should be brought to England, except in British ships, or in ships of the country where it was grown. That act, which originally only applied to Europe, had been since extended to the United States.

### *Corn Laws.*

Several petitions for and against a revision of the Corn Laws—the former from the manufacturing and commercial, the latter from the agricultural classes, were presented to both Houses, at various periods of the session. The following, however, was the first petition which gave rise to discussion on the subject:—

LORDS, MONDAY, APRIL 25.—A petition against any alteration in the Corn Laws having been presented by Lord *Suffield*,

The Earl of *Lauderdale* took the opportunity of asking the noble earl (Liverpool) whether it was the intention of government to propose any alteration in the corn laws during this session?

The Earl of *Liverpool* stated in reply, that their lordships must recollect, that the last time this subject was under the consideration of parliament was in 1822. Some alterations were then made in the system of 1815, and others were recommended, which had not been made. This was the state in which the question now stood. He certainly could not object to state in public what he often had declared in private—that some alteration in the present system was, in his opinion, necessary; and yet he was not prepared to go into the question during the present session, but hoped that it would be

found convenient for their lordships to take it up in the course of the next, and to enter into it, in all its bearings. He stated this, that no uncertainty might continue on the subject, as that could only produce further agitation, and create a fluctuation in prices. Their lordships must not conceal from themselves this truth, that though the classes connected with land viewed the corn laws in a different light from those connected with trade, the true interests of all classes on this question were really the same. One class, however, looking to immediate interest, naturally wished to remove all restrictions on importation, while the other as naturally desired to raise the price of the commodity it produced. He had endeavoured to do his duty between these conflicting interests. There was, in his opinion, a difficulty in this question which he did not think had ever yet been fairly considered. No man could be more desirous than he was to see the trade of the country placed on the most liberal footing; but when commercial principles were applied to corn, obstacles arose which were not easily overcome. In all other kinds of manufacture, if a fixed protecting duty were imposed, it would be easy to abide by it. Whatsoever might be the state of the home supply at a particular time, things would at length come round, and the manufacture would find its level. But it was not so with respect to corn, because at however equitable a rate the duty might be fixed, still periods and seasons might occur in which no protecting duty whatever could be adhered to. In a time of great scarcity it could not be said to a starving population that they should pay any thing in addition to the natural price of corn. Still he thought some alteration in the present system indispensable on several grounds. The price of corn in this country was now nearly double what it was in 1815, when the present system was fixed. The argument used in making that arrangement was, that an importation price of 80s. was necessary to secure a reasonable profit on cultivation. This appeared to be by no means necessary now. In fact it could not be maintained, in consequence of the effect which it had on the value of labour. If he might venture to throw out a few observations, he would say that in making any future changes their lordships would have to proceed on one of three principles: 1st. They might simply alter the importation price, and in other respects retain the system; 2d. They might alter the existing system altogether, and adopting the recommendation of the committee of 1822, impose protecting duties with a *maximum*, beyond which importation should be perfectly free, and a *minimum*, under which none should be allowed; 3d. A general protecting duty might be fixed by which they would get rid of the system of averages, but which could not be resorted to without placing somewhere a discretionary power to remove the duty altogether in a time of scarcity. Much difficulty would be found in establishing a *maximum* or *minimum* with a fixed protecting duty. If, therefore, a fixed duty should be rejected, their lordships would have the option, either of adhering to the present system with an alteration of the import price, or establishing a system of protecting duties with a *maximum* and *minimum*; or else of taking a *maximum* and *minimum* without any protecting duty. He knew not whether he had made himself intelligible, but he thought it right to lay before the house the different systems which it was likely

their lordships would have to discuss. He must now repeat, that it was not his intention to propose any alteration in the corn laws during the present session. He did not know, however, but that one particular part of the present system might sooner be brought under their lordships' consideration—he meant the question relating to the bonded corn which had been and still was in warehouses. That branch of the system had already undergone some alteration with respect to Canada corn. With regard to the other bonded corn, those members of the landed interest whom he had consulted on the subject were favourable to the contemplated alteration. As to the general question, he certainly could not think it right to enter on its consideration at this late period of the session; but, aware that it must in due time come under consideration, he was anxious to put the house in possession of his views and feelings on the subject.

The Marquis of Lansdown concurred in much of what had fallen from the noble earl; at the same time he must observe, that the result of many deliberate and serious reflections on this subject had brought him to the conclusion that it would be ultimately impossible for Parliament to continue the present system. He agreed with the noble earl as to the difficulty of fixing a duty which would not be found inconvenient in periods of scarcity or abundance; but at the same time he regarded such a plan as best calculated to prevent scarcity. It was true, they must first determine the average price which would afford a sufficient guarantee to the British cultivator, and next the average state of productiveness on the continent. He was sure that most erroneous notions prevailed as to the average cost and price of agricultural produce on the continent. In coming to a determination, it would be their lordships' duty to endeavour to conciliate all the interests in the country, and to take care that the balance should not incline too much to the one side or the other. Their great object should be, to arrive at something fixed and permanent; for, bad as the present system was, he would rather retain it with all its faults than change it for one still liable to fluctuation. It was obvious that if too high a price were fixed, the manufacturing interest would have just reason to complain of the dearth of provisions, which must raise the price of labour. If the price were fixed too low, the landed interest would be injured, and with it, as recent events had most strikingly proved, every other interest in the country would be seriously affected. On these grounds he could not too strongly impress on their lordships the necessity of looking to the establishment of a permanent law which would be capable of conciliating the interests of all the different classes of the empire.

The Earl of Lauderdale reminded their lordships, that while they were considering the subject, speculation would be at work. It was therefore necessary to delay their determination as little as possible, and to make the new system more permanent and certain than the present. The noble earl had stated, that under the present system corn was now in this country twice the price it sold for on the continent; but he should recollect, that although 80s. was the *minimum* price of 1815, corn had never since reached that price. During the existence of the arrangement, however, bread had never been at an unreasonable price. When their lordships considered that the present system.

under various modifications, had endured for more than a century, they could not be too cautious in departing entirely from it. He did not say that it was perfect; but it was one under which the agriculture of this country had long flourished. On this ground, he dreaded alteration. He dreaded it, because the situation of the landed interest was different from that of any other. Capital was embarked on land under leases of 21 years, and the value of that capital would be instantly affected by any alteration of the law.

The Earl of *Liverpool* fully agreed in the importance of a careful investigation, and that if a change of system were made, it should be as permanent as possible. But if they looked to the price of grain in this country and abroad for the last thirty years, they would find that nothing could be more varying. The variation in the weight of the taxation from the war average of 70,000,000*l.* to that of 50,000,000*l.* in time of peace, was another cause of fluctuation. The occurrence of another war might disturb all their present calculations. Besides, Prussia, Poland, and other countries, from which foreign corn was usually imported, were all poor; but as they increased in wealth and civilization, their power of supplying us would become less. In whatever way they might proceed, it appeared to him that they never could expect to obtain that certainty which would enable them to fix an unalterable price.

Lord *King* wished a determination to be come to on this subject as speedily as possible; for, in consequence of the agitation of the question, bargains between individuals must be at a stand till a settlement took place. He hoped that an understanding would be brought about between the landed interest and the manufacturers. Wheat in some of the continental ports was 18*s.*, but if the market was opened in this country it would rapidly rise perhaps to 56*s.* or 60*s.*; but, whatever might be the present price, great difficulty would be experienced in founding a fixed rate for importation. One great inconvenience of a high rate was, that when the ports were suddenly thrown open, an immense importation took place. Some measure, he thought, ought to be adopted to restrain the excessive importation which took place in such cases.

The Earl of *Darnley* thought their lordships should not be persuaded, during this mania for free trade, to change a system of so long standing, by the clamour for cheap bread. Those who asked for free trade, forgot that the agriculturists were their best customers.

COMMONS, MONDAY, APRIL 25. — Mr. *T. Wilson* rose to present a petition signed by a numerous and respectable body of the merchants, bankers, ship-owners, and other inhabitants of the city of London, amounting to upwards of 5,000 persons. The petition was the result of one of the most numerous and respectable public meetings that ever was convened. The meeting was so unanimous, that but a single hand was held up against two of the resolutions on which the petition was founded. The petitioners begged leave to express their opinion, that a high price of food, generally, as compared with the price of other countries, was a very great evil. It deprived the mass of the people of many comforts—it lowered the energy of labour in this country—it retarded the production of wealth—it had an

injurious effect on commerce—and was prejudicial to the English character in foreign markets. They were also of opinion, that the constant variation in the price of corn was an evil scarcely less than the existence of extravagant prices themselves. Under the existing system, the people never could have the benefit of the growth of foreign countries until the article had reached a very high price here. In consequence, they had to pay nearly double the sum which ought to be paid for that article when imported, because the foreign prices were regulated by ours. There was another inconvenience produced by an extraordinary rise of price—corn then poured in from all quarters, the market was completely deluged with it, and it afterwards took four or five years to relieve the country from it. During this time the landed interest must bring their corn to market under circumstances of great disadvantage. They were compelled to sell it for what they could get, which would not be the case if there were a fair protecting duty, and the ports were allowed to be commonly open. Under these circumstances, the petitioners came to parliament to request that a more beneficial system should be pursued. They stated, that a fixed duty on the importation of corn appeared to them to be the most wise and efficacious measure that could be adopted. It was, they conceived, the only way in which a fair trade could be carried on; since it would get rid of the mischief to which the country was at present liable from fraudulent returns; and if the landed interest did not get such very high prices as they did from time to time, they would receive fair remunerating prices, and enjoy a steady market. The petitioners stated their belief, that the difference between the prices in one country and another afforded the best criterion of what a protecting duty should be. The petitioners wished such a duty to be levied as would allow corn to be sold at a fair price. They were by no means desirous that it should be so low as to induce a depression that would be injurious to the landowner. The petitioners observed, it might be supposed, by those who had not considered the subject, that the manufacturing interest was at variance with the landed interest. This they denied; and they declared their firm conviction, that the principles advocated by them, would, on the contrary, lead to an increase of trade which would be most beneficial to both parties. There was one circumstance which rendered it awkward, in his opinion, to bring this subject before the house at the present moment—he meant the prices were so low, that he feared the circumstance would stagger the feelings of some gentlemen. But it should be recollected, that for five or six years this country had not been open to the grain of the continent. There must, therefore, during that time, have been a great accumulation of corn; and it was no argument to say, because wheat was now at 20*s.* the quarter, that it would not rise to 30*s.* or 40*s.* when the ports were opened, and a part of the superfluity disposed of. If the landed gentlemen consulted their own interest, they would take the present time, when the manufacturing and mercantile system was in a course of revivion, and when agriculture was well paid, to assist in the alteration of the corn laws. To revert to the petitions, he feared that he had stated their opinions in an imperfect manner; but he hoped he had said enough to show that they were not hostile to the landed

proprietors; but that they merely wished to remove a system which produced fraud and inconvenience.

Mr. *Goock* said, that if any subject in the world ought to be less tampered with than another, it was this. He would ask, was there a single petition on the subject of the corn laws before the hon. member (Mr. Whitmore) gave notice of his motion? Did not every class of his Majesty's subjects appear contented and happy? Did not his Majesty, in his gracious speech from the throne, declare that tranquillity and happiness reigned in every part of the country? If this were the case, he must call on the hon. member (Mr. Whitmore) to state a much stronger case than he had yet made out, before he could assent to the intended alteration (hear). He did not mean to say that the corn laws did not want revision (hear). But the time had not arrived. At present corn was only kept up to a fair price. He wished the city had let this question alone. If interference were necessary, the country gentlemen could act for themselves. At present, he believed, the workmen in the city received greater wages than they ever did. They had nothing to do on Sundays and Mondays but to stuff themselves with roast beef and plum-pudding (a laugh). To talk of poverty in the city, was all a mere humbug (a laugh). The agitation of this question had created a ferment throughout the country; and he had received many letters expressive of the great apprehensions that were entertained with respect to the proceedings of parliament. Individuals were afraid, if the system were altered, that they would be reduced to the same situation as that in which they were placed some years ago; and that they would be again borne down by the poor rates. He would say to the country gentlemen, that they would be duller

"Than the dull weed that rots on Lethe's wharf."

If they did not exert themselves on this occasion.

Mr. *Huskisson* said, that his Majesty's Government had no intention of proposing any revision of the corn laws in the present session. He would, however, suggest to parliament, at an early period of the next session, the propriety of entering on a general revision of those laws. At the same time he must state, that he had a proposition to submit to the house on a matter connected with this subject—he alluded to the wheat which was now shut up under bond. He thought it would be useful, even to that class of persons who objected to an alteration in the corn laws, if that wheat, under certain regulations, were suffered to come into the market.

Mr. Alderman *Thompson* wished to know, whether, if the corn laws were to be continued in their present state, the rt. hon. gent. meant to proceed with his bills for lowering the duties on foreign manufactures? When the price of corn was so high, it was impossible that British manufactures could come into fair competition with foreign fabrics.

Mr. *Baring* deprecated delaying the discussion on this subject. Whilst it remained undecided, no landlord could tell what his lease, what his agricultural property, was likely to be worth (hear); for undoubtedly the value of the lease depended on the scale of protection which was extended to corn (hear).

In such a state of things, landed gentlemen could not make settlements and arrangements regarding their property. They could not tell what provision they might make for themselves, or for those who came after them. All this depended on what would be done to regulate the price of corn. When the rt. hon. gent. said, nothing would be done now, but that next year the question should be looked into; it was the same as saying, "You shall go through the whole year under a vicious system, which Government intends to cure next year."

Sir *Edward Knatchbull* deprecated any alteration in the existing laws until the time should arrive when the necessity of such alteration had been proved by the actual experience of some inconvenience.

Lord *Milton* expressed his regret at the decision which had been expressed by ministers to postpone the discussion for the present. He thought it was their duty to come to a decision on so important a subject at the earliest possible period. In his opinion no time could be more fitting than the present. It was obvious, from the interest which the subject had excited, that the minds of the people would be kept in a state of ferment until it should be settled; and he asked whether any time could be so convenient for entering upon the discussion which must lead to that settlement as this, when universal tranquillity prevailed?

Mr. *F. Lewis* said, that although he had voted for the law of 1815, he was now sorry that he had done so, being convinced that the alteration between a free importation on the one hand, and the entire exclusion of corn on the other, was most injudicious and erroneous (hear, hear). But he thought it was highly preposterous that his rt. hon. friend (Mr. *Huskisson*), whose attention was occupied with so many subjects, of not less importance than this, should be called upon at once to come to a decision upon a topic which would require such deliberate discussion.

Sir *T. Lethbridge* never wished to see prices higher than at this moment, and should be happy to see the old principle of open ports and fixed duties again acted upon. There were at this moment 400,000 quarters of wheat in bond, which might be released with great benefit to the public. With respect to the amount of the duties, all he had to say was, that it was better they should be too high than too low, because it would then be easier to alter them.

Mr. *Huskisson* appealed to the house, to give him credit for having weighed well the reasons which had induced him to withhold any proposal on the subject, and to wait until the motion of the hon. member (Mr. Whitmore) should be before the house, when he intended to explain the operation of the change in the system of duties on the manufacturing interests, and the consequent effect which must be wrought in the corn laws. He should also be then prepared to state what it would be more easy to accomplish in the next session with respect to those laws, and to show the expediency of adopting some protection by means of duties, instead of the present objectionable alternation between a free trade in, and the entire exclusion, of corn.

The petition was then ordered to lie on the table.

LORDS, TUESDAY, APRIL 23.—The Mar-

guis of *Lansdown* presented a petition from the merchants, bankers, manufacturers, and others of London, on the subject of the corn laws. This petition must be considered as expressing the sense of the great commercial body of London; for it was signed by 6,000 persons, among whom were the most eminent bankers and merchants; and if such a number as 6,000 did not include the whole, it certainly formed a great proportion of the mercantile interest. He must also observe, that while the petition prayed for an alteration in the corn laws, it by no means contained an unqualified demand of free trade. It called for importation under a protecting duty, capable of counterbalancing the burdens imposed on the British cultivator; a principle which, he believed, was agreed to by all practical men; nor did he know any persons who espoused the doctrine of a perfectly free trade in corn, except some few who were led away by abstract principles and theories. He had already stated his own opinion of the necessity of some alteration in the corn laws, and he fully concurred with the noble earl opposite, as to the impossibility of doing any thing on the subject this session; but here he must observe, that he was convinced the alteration could not be long delayed without great danger. Keeping up the present system with the avowed determination to alter it, must be attended with great inconvenience, from the incitement it would give to speculation. It was impossible to look at the prices of corn in this country compared with the rest of Europe, without entertaining the apprehension of the prices being run up here to 85s., which would open the ports, and cause an influx from all parts of the world. Such an event might bring the price of corn down to 40s. or even to 30s. the quarter, and thus produce one of the most violent convulsions this country had ever experienced. Under these circumstances, he approved of the admission of corn from Canada, and of the intention to release the bonded corn. He hoped that the effect of those measures would be to prevent corn from rising. Against such a revulsion as the opening of the ports would produce, it was the duty of Parliament to provide, and that he thought could only be done by something like a fixed duty; but the security to be derived from such a measure, he conceived, would mainly depend upon the duty being of a permanent nature. He admitted that there were difficulties in the way of determining what that duty ought to be. It was undoubtedly true, as the noble earl (*Liverpool*) had yesterday said, that war would have the effect of altering the price of agricultural productions by increasing the burdens on cultivation, but at the same time war gave the agriculturist an additional protection against importation, by increasing the price of freight. Thus there was a certainty of a countervailing protection in the very circumstance which the noble earl had adduced as most likely to prevent the establishment of a permanent duty. Before he sat down, he must advert to one other point. It had been stated that the agitation of this question had caused an alteration in the course of exchange unfavourable to this country. He had been informed, however, from the best authority, that that unfavourable course of exchange was in operation previous to any intimation of a wish to alter the corn laws. It was produced by a great demand by this country for cotton, coffee, and

various other articles of foreign produce which were paid for in money. The agitation of the question of the corn laws might in some degree have contributed to the present state of exchange, but it certainly was not the sole nor the main cause.

The Earl of *Limerick* thought that the consequence of the admission of Canadian corn would be to afford an inlet to the corn of the United States. There being only a river between the two territories, it was impossible to prevent smuggling, and the corn of the United States would, in future, be brought to this country, under the name of Canadian, as the timber of those States now was.

The Earl of *Lauderdale* said, that as a demand for raw materials from foreign countries could only originate in a foreign demand for home manufactures, there could be no variation thereby produced in the exchanges; there would be only an equal value going out and coming in. If there were any difference, it must arise from the state of the demand for home consumption. And here he wished the manufacturers would bethink themselves of the consequences which would infallibly ensue, were the landed interest to be impoverished. If the landed interest were thrown into a situation in which they could not consume largely, no class in the country would suffer so much as the manufacturers.

The Marquis of *Lansdown* had stated that the alteration in the course of exchange occurred before the agitation of the corn question, he believed so long ago as 13 or 14 months, chiefly by a demand for produce from abroad; but he had not said that the importation was paid for by manufactures. On the contrary, the foreign articles had been paid for in specie. In consequence of the great demand for coffee and cotton, persons had speculated on a rise in those articles, and consequently importations had taken place from all parts of the world. He admitted the justice of the general principle stated by his noble friend, and agreed with him in opinion that the true foundation of the manufacturer's prosperity was the growth of the home demand. He hoped the manufacturers would remember, that it was to the increase of that demand they had recently been indebted for their relief from a state of great difficulty and depression.

The Earl of *Liverpool* said that with regard to the apprehension entertained of the importation of American corn, he could assure the noble lord who had introduced that topic, that that was by no means the first danger to which the landed interest had to look. If the accounts of former importations were adverted to, it would be found that the quarter from which foreign corn had chiefly been received was the country bordering on the Baltic. The expense attending the passage would always impose a considerable check on importation from America. With respect to the delay, if blame attached to any body on that score, it was to himself. But the subject was one which, from the important considerations it involved, required the most mature deliberation. He certainly thought that Canada, as a vital part of this empire, was entitled to any advantages that could be derived from whatever system was adopted.

Lord *Ellenborough* said, that the only system which even approached permanence was either one of absolute freedom or absolute prohibition;

and each of these was objectionable. If any system were adopted, it must change with reference to the circumstances of the country.

Lord King observed, that the noble earl opposite had stated that some change would take place. Undoubtedly some change must take place. And why must it? Because corn was too dear. If so, a great injustice would be done to the consumer by not adopting it without delay. Why should it not be adopted this year, instead of next year? The delay was injurious to the landed interests, now that it was announced that a change was to take place; as being calculated to unsettle their bargains and other transactions. He conceived that the landed interests, who paid poor rates, and church rates, and tithes, had a right to call for a protecting duty. About 12s. a quarter on wheat, and a proportionate duty on barley and oats, he thought would afford the landlord a fair compensation for those rates which were paid exclusively out of the land.

The petition was then ordered to lie on the table.

THURSDAY, APRIL 28.—Lord King, in presenting a petition against the Corn Laws, said, that he hoped the noble lord (Liverpool) would not continue for another year the present system of the corn laws, which compelled the whole population of the country to pay a very heavy tax. The burden which the corn laws imposed was of the odious nature of a poll tax, and was every where severely felt. If the present state of the corn laws added 15s. per quarter to the price of wheat, the continuation of the system was making every man in the country pay this 15s. unjustly; and by this tax every family in the kingdom was obliged necessarily to pay to the amount of 9l. 15s. per annum.

The Earl of Lauderdale would ask the noble lord where he had learned that the price of corn was so high as to constitute this tax? The noble lord was present at the commencement of the session, when His Majesty's speech described the prosperous state of the agriculture of the country; but the noble lord then said nothing about the high price of corn, and made no complaints of the poor suffering by the corn laws. If the noble lord really wished to canvass for petitions, he had taken the right way to get them. He would now have them in abundance from the most ignorant part of the country. He had thought it is duty to say thus much, because the observations of the noble lord were of a nature to excite no slight agitation throughout the country.

Lord King had been asked where he had learned that the price of corn was high? He had learned that fact from the petitions on the table; one of which was signed by 6000 bankers and merchants of the city of London. He had learned it by the petitions from Manchester, Liverpool, and various parts of the country. He had learned it by the rise of prices since the commencement of the session, which prices had so increased that there were apprehensions of the ports being thrown open. He was glad that the subject was to be taken up by the noble lord opposite, though he should be better pleased if there were no delay. When it should be taken up, however, he hoped and trusted their lordships would see no committee. If a committee were formed, every spectre would be brought forward and exhibited before it to frighten the country gentlemen. They would be told how cheap corn could be raised in Poland, where a

plough was tied to a cow's tail or horns. There corn could be grown for nothing. If the noble lord at the head of the Treasury really meant to do any thing on this subject, he hoped he would do it without the intervention of a committee.

The Earl of Lauderdale denied that there was a single complaint or that any petitions relative to the price of corn had been presented, until after notice had been given (by Mr. Whitmore) of a motion on the subject. The noble lord, it seemed, had learned the high price of corn from the petitions of merchants; but those petitioners were not corn consumers. All that they cared about corn was, that they might have opportunities to speculate, and put large profits in their pocket.

The Earl of Limerick had stated on a previous evening, that if Canada corn were admitted it would be impossible to exclude American corn, and he had that morning met with a confirmation of his opinion. In looking over some returns, he observed one from our Consul in America, who stated that prices had been very low in that country, till a rumour got abroad that Canada corn was to be allowed to be imported, and prices immediately rose in America. There was also an opinion there that prices would certainly rise higher the instant that rumour became a certainty. A whole army of Custom-house officers could not prevent American flour from finding its way into this country, if flour might be imported from Canada. He believed the demand for a revision of the Corn Laws did not arise from any affection for the poor.

The Earl of Rosslyn said, it was incumbent on the Legislature to recollect that numerous contracts had been entered into on the faith of the present law, which it was understood should be permanent. He could not but think any supposition of an alteration would create considerable alarm. It would have a great effect in Scotland, where the Ministers' stipends were partly paid according to the price of grain in the market.

COMMONS.—A petition in favour of the Corn Laws having been presented,

Mr. Brougham said, he did not mean, on this occasion, to address himself to the important question which was to be discussed that night; but he merely wished to suggest, that hon. gents. would do well to abstain from saying any thing on presenting their petitions, or anticipate the discussion of the evening. He had never failed to observe, that when petitions were to be presented in great number, on a subject appointed for debate on the same night, the observations which were usually made upon them, occurring over and over again with each separate petition, had the effect of anticipating much of what might be more conveniently reserved for the principal debate; so that when the debate at last came on, those observations were found to have completely stifled it; or, to use a common phrase, to have thrown cold water over it. This being the case, he should himself follow his own doctrine (a laugh). A petition must numerously and respectfully signed by the inhabitants of the county of Durham, praying that no alteration might take place in the existing corn laws, had been forwarded to him, and the petitioners had done him the honour to confide it to his charge; but for the reasons he had already stated, he did

not intend to present it to-night, but would bring it in to-morrow night. In the mean time the petitioners had all the benefit of the declaration which he now made, that the whole of the agricultural population of Durham were decidedly averse to any alteration of the corn laws.

The Sheriffs of the city of London appeared at the bar to present a petition from the Lord Mayor, Aldermen, and Commons of the city of London, praying for an alteration in the corn laws.

Mr. Alderman Wood said it was not often the lot of the Common Council to record their approbation of the measures pursued by Government (a laugh). On the present occasion, however, they expressed their admiration of the policy of ministers in removing restrictions and establishing in almost every direction a free trade; but they added, that it was quite impossible, without some great alterations in the corn laws, which should have the effect of lowering the price of grain, to stand up against the foreign manufacturer, whom we had now admitted into our own markets. The petitioners did not ask any lower duty, at the same time, than might be sufficient to protect the landowner. But under the present system of corn-laws many frauds were practised to keep up the price of grain to the consumer in this country; and the monopolist, and not the farmer, obtained all the advantage of those high prices from which the public suffered. He hoped that this trade would, for the future, be placed on that footing which would be most advantageous to the agriculturist and to the consumer generally (hear).

Mr. Wilson was happy to be able to concur in what had fallen from his worthy colleague, which it was by no means his good fortune to do every day.

The petition was laid on the table.

Mr. Whitmore rose in pursuance of a notice, given early in the present session, to bring under the consideration of the house the law respecting the trade in foreign corn. In doing this, he was actuated by a deep conviction that the period was arrived, beyond which the consideration of this important subject could not with safety be postponed. It was time to make the laws regulating the Corn Trade square a little better with those principles of free trade which had, so much to the credit of Ministers, been of late so largely acted upon, and from which the greatest benefits would be found to result, not alone to the people of this great manufacturing country, but to the world at large. The Corn Laws of England stood forward in glaring contrast to those principles, and were calculated to defeat the great advantages which would otherwise accrue from their adoption. Was it not unjust to call upon the manufacturing interest to make those sacrifices, which a change of system, however beneficial in its ultimate results, never failed in the first instance to entail upon the parties interested—when at the same time they allowed to continue in its full force, a system which struck at the very root of commercial prosperity? A free admission of foreign corn, subject to such duty as the existence of burdens, bearing exclusively upon the productions of the soil might require, was the basis

upon which free trade must repose, and without which it never could be permanently and effectually carried into operation. The Corn Laws of this country had inflicted the greatest injury upon the general trade of the world, that ever perhaps was produced by injudicious legislation. The returns from the Consuls abroad, stating the low price of corn in all the shipping ports of the continent, and complaining, whenever any remarks accompanied their returns, of the distress generally prevalent in the corn exporting countries, were sufficient evidence of this fact. One remarkable effect produced by them was, that they had led to the adoption of similar laws in all the other countries in Europe whose natural condition was that of importing countries of corn. Spain and Portugal had followed our example, and Holland, whose laws respecting the external trade in corn, were, until lately, the best existing in any country, had just been forced to the adoption of the same line of policy. It was obvious, that if England, the great regulator of the price of corn in this part of the world, and with a view to the supply of whose markets, a considerable portion of that commodity was grown in Poland and the other exporting countries—if England determined on shutting her ports against its admission, the corn, not finding its usual vent, must be thrown back upon the countries of its produce, causing a glut in their own markets, and overwhelming with its quantity the markets of all other countries open to its reception. It followed as an inevitable consequence, that the exclusion of foreign corn from the markets of a country naturally importing, produced similar regulations in other countries similarly situated. Now such a policy must, at no distant period, repress production; it must cause the agriculturists of the exporting countries to abandon the cultivation of grain to a considerable extent, and betake themselves to the production of some other article, which, if not equally beneficial where a regular market existed for the sale of grain, was attended with more profit. Such, when no such market could be had, in fact, had been the case, as was proved in certain letters which he had received from Mr. Behrend, a resident at Dantzic, connected with the Corn Trade, minutely informed of the actual situation of the agriculturists of that country, from the circumstance of his being a landed proprietor in it to a considerable extent. Mr. Behrend said, that "The Corn Trade having now lingered in a depressed state for upwards of six years, the result to the whole northern continent and more particularly to this country, has been extremely disastrous. The penury of the agriculturists having been driven to the highest pitch, production has gradually diminished, and as the higher classes have also felt the pressure of this general impoverishment, our commercial intercourse with the western parts of Europe has experienced a serious diminution. It is generally thought that the consumption of British colonials and manufactures, does not at present exceed one half of what it was before this unfortunate crisis of the Corn Trade took place. The price of wheat at which the Prussian farmer can afford to pay the moderate taxes of this country, is calculated by the best economists at 35s. per Winchester quarter, but the landed proprietor in Volhynia (from which province we get the bulk of good wheat), cannot sup-



ply the ports of the Baltic at less than 38s., as he has nearly 14s. to pay for freight, duties, and charges. Hence it appears, that our prices have been for more than five years under the cost of production, which accounts sufficiently for the considerable decrease which is observed in the extent of the Polish supplies and our home produce. It has been rumoured, that our government intends to retaliate, or, at least, to meet the present prohibitive system of the western countries by a similar measure, as regards several expensive articles of importation which are not in the number of the immediate necessities of life; but little good is anticipated from such a measure, as it would, perhaps, annihilate trade altogether." Upon the receipt of this letter he requested further information upon this subject, and received a second communication from the same gentleman, which he would also read:—"I am myself the possessor of a patrimonial estate, on which my father never used to keep above 100 to 150 sheep. I have now increased my flock to 1000 head, and as long as wool maintains its present value, I am certain I shall not recur to an increased culture of grain, were I to be made sure of 40s. per quarter for my wheat. I now produce about one-half the wheat which was grown on the same soil ten or twelve years ago, but find myself abundantly indemnified by an advantageous sale of the produce of my flock. I observe most of my neighbours to have adopted the same method, and, I think, I know but two classes of Polish agriculturists, one of which is ruined beyond help, and whose properties are in a state of general deterioration; and the other, having directed their whole attention to the breeding of cattle, the latter are observed to make annually large purchases of sheep, more particularly in Silesia and Saxony." Now from this reasoning, and these facts, there arose two important considerations—first, with respect to the regular supply of food for the consumption of this country; secondly, with respect to the effect this change of system would have on our own agricultural pursuits. Unless it could be shown that the average production in Europe of several years had been above the average consumption of the same period,—a fact, which few would venture to assert,—it must follow that a considerable reduction in produce, without a corresponding falling off in consumption, must lead, at some time or other, to great deficiency in the quantity of food, and, consequently, to dearth, if not famine. The stocks of wheat were considered, by all the most intelligent persons he had conversed with upon the subject as unusually low; and we were, therefore, entirely dependent upon the seasons, without, as was generally the case, having any stock upon which to draw in case of deficient produce. Our resource of foreign supply would be essentially diminished by the change in agriculture abroad, to which he had alluded. The evil might be retarded by abundant seasons; it might be altogether averted by a timely change in the corn laws, but if they were allowed to continue in full force, the fatal effect he contemplated seemed at some period inevitable. The other consideration arising from these facts was, that the hopes of the English agriculturist would be defeated, by the admission of a much larger quantity of foreign agricultural produce, other

than grain, provided the present law continued to exclude the latter description of produce. More wool, more flax, more tallow, would be imported, and seriously affect the price of these articles in the English market. The present law was inconsistent with itself; and, in that respect, even Mr. Webb Hall's proposition had a greater appearance of wisdom—it was at least more consistent; though, it must be admitted, it was a consistency in error. Such, indeed, had been the fact. If gentlemen would look to the imports of these articles, they would find the quantities imported had lately very considerably increased. The annual average import of wool for five years, ending 1823, amounted to 16,194,502 lbs.; for the year 1824, it exceeded that quantity by 6,363,720 lbs. The import of tallow for five years, ending 1819, averaged 512,116 cwt. 2 qrs. 1 lb. for each year; for the five years ending 1823, it averaged 732,494 cwt. 2 qrs. 10 lbs., being an excess in the latter period of 220,378 cwt. 5 qrs. 9 lbs. The flax imported from 1811 to 1820 averaged 325,946 cwts. annually; in 1824 it amounted to 547,096 cwts. 2 qrs. 17 lbs. being an excess of the last year of 221,150 cwts. 2 qrs. 17 lbs.—Now he was well aware that the increasing population and prosperity of this country required a larger supply of these articles than heretofore. He was also aware that, in some cases, new markets had opened, and, in others, duties on imports had been lowered, which would naturally cause a larger importation; but still he was convinced that if we continued our present system, we should find ourselves competed with at home, in these various products, in a way seriously affecting the interests of the agricultural classes. He need hardly refer to the evils of glut, as we had so recently escaped from them, that they must be fresh in the recollection of every gentleman; and all who reflected upon the subject must admit that a law, the tendency of which was to produce dearth at one time, would equally conduce to create superabundance at another. Great and ruinous fluctuation of price was the inevitable result of a system of restriction; whereas freedom in the corn trade led to the opposite effect—to as much steadiness of price as was consistent with a commodity, the produce of which varied so much with the seasons. In order to illustrate this, he would suppose the trade in corn confined to a single parish. Could any one, in such a case, doubt that dearth at one period, and superabundance at another, would follow as a necessary consequence? Extend the limits of the trade from a parish to a county, the variations, though less sudden and less frequent, would still be of perpetual recurrence. Extend them to a large country, and the chance of fluctuation, as well as its range, became thereby diminished. In fact, the more the basis from whence supplies were drawn was widened, the greater the steadiness of price—the more it was narrowed, the more constant and the more fatal in their effects, the fluctuations to which they were subject. Another material consideration, respecting a price of corn considerably higher than its rate in surrounding nations, arose from its effect on capital invested in other pursuits. It must raise the price of labour; and this rise in labour must, in some shape or other, affect the manufacturer. Some imagined it raised the price of his commodities; others, of whom he

was one, that it reduced the rate of his profits. In the former case, competition in foreign markets, with articles of foreign produce, would become impossible; in the latter case, the profits of stock would be essentially diminished. In either case dangerous consequences would result. Capital, upon the possession of which the power and importance, as well as wealth of this country depended, would be attracted by superior advantages to some other situation. Gentlemen unaccustomed to reflect upon subjects of this nature, and perceiving great appearance of prosperity in all directions, might, perhaps, undervalue this consideration; and yet, there was none of more vital consequence to the essential interests of this country. Did any statesman in that house believe we could pursue this policy with impunity; did any man of common intelligence in the country, who viewed the subject with impartiality, believe it? Could they adduce a single instance of a country similarly situated which had pursued such a system, and continued to thrive under it? He challenged them to produce an instance in any part or in any period of the world. The downfall of Holland, on the contrary, was attributed by the best authorities, whom it might appear pedantry to quote, to the circumstance of a large artificial rise in the price of bread; and he felt convinced, if the corn laws were to continue without modification for twenty years, that the prosperity of England would receive a mortal stab. There was also another effect produced by this law, of no mean importance. It was clear that its object was to raise the price of provisions for the benefit of one class of the community, at the expense of the rest. The class whose benefit was thus sought was the powerful and affluent class; those whose interests were rendered subservient were the mass and body of the people—could this produce any other effect than discord and disunion, where harmony and concord were so essential for the public good? Were they prepared at the present time of day to separate the aristocracy from the people? Were they prepared to set up a privileged class, to whose immediate advantage the real interests of the country were to be heedlessly sacrificed? This would be at all times most dangerous—introducing a principle altogether at variance with the spirit of the constitution, and calculated to work in it a change which could not be contemplated without most serious apprehension. But was this the time they would select for so rash an experiment? Was it a time of ignorance upon matters of this nature? Was it a moment when monopoly could shelter itself under the garb of patriotism? Was it not, on the contrary, the time above all others when the flimsy veil would be most easily seen through, and when the real nature of the law would stand forth in all its worst features, naked and exposed to the indignant gaze of an enlightened and injured people? Before he proceeded to state what alteration in the law he was about to recommend, he should mention shortly what the Corn Law of England formerly was, and the rather because some were in the habit of considering the present law as of long standing, and as having therefore received the seal of time and experience. This was an error. The principle introduced by the law of 1815 was entirely new, such as had been never dreamt of before, being in truth, the wildest theory, and most insane speculation, that ever entered into the heads of

practical statesmen. It contained a provision, that there should be a complete exclusion of foreign corn under a given price, 80s. per quarter, and a free admission of it above that price. The law of 1823 in some measure modified this principle, but containing an import price, and fixing it as high as 70s. It left the law in very nearly the same injurious state. This was not so formerly. By the law passed in 1773, the time at which we became a regular importing country, foreign wheat was at all times admissible into the English markets, subject to one high duty of 24s. 3d. per quarter, and two low duties; the first of 2s. 3d., the second of 6d. per quarter. The high duty was payable when wheat was below 44s. per quarter; the first low duty of 2s. 6d. when its average price was at or above 44s.; the second low duty of 6d. per quarter when the price reached 46s. The same principle and amount of duties was continued by the law passed in 1791, but the prices at which they were payable were altered: the high duty of 24s. 3d. was payable up to 50s.; the first low duty of 2s. 6d. between 50s. and 54s.; and the second low duty of 6d. at or above 54s. In 1804 these prices were again changed to 63s. per quarter, up to which the high duty was payable; between 63s. and 66s. the first low duty was imposed, and at 66s. the second low duty took place. Owing to the price in the English market being always (with the exception of three or four years, which occurred after the American war,) above that price at which the high duty was payable, the effect was a free trade in corn, subject to a duty of 2s. 6d. per quarter at most, but generally to a duty of only 6d. Virtually, then, though not nominally, we had a free trade in corn with very low duties.—He should now proceed to the proposed alteration, but before he did so, he must clear his way of the exclusive burdens to which the agriculturist of this country was subject, and on account of which, by the admission of all parties, he was entitled to some protection. These had been much exaggerated; but neither was he disposed to reduce them to their lowest amount, as he was convinced that there was a disposition on the part of the people of this country, to make a fair and liberal allowance to the agricultural interest with respect to these burdens: but he must enquire a little as to their amount. They were said to consist of poor rates, tithes, land tax, highway, and other parochial rates.

The poor rates, including county rates and other payments, amounted in 1823 to about			£7,000,000
Tithes	-	-	5,000,000
Land tax	-	-	1,210,127
Highways, &c.	-	-	2,000,000

£15,210,127

But to cover all possible loss accruing from these burdens, he would take them at 18,000,000l. Now, what would be the effect of a duty of 10s. per quarter imposed on the import of foreign wheat into this country? If they took the consumption at 14,000,000 quarters, it would stand thus:—

14,000,000 quarters wheat, raised in price by a duty of 10s. per quarter	£7,000,000
14,000,000 barley, duty 3s.	3,500,000
20,000,000 oats, duty 3s.	3,000,000
Grass produce, vegetables, &c.	5,000,000

£18,500,000

A duty of 10s. then would have the effect of drawing from the pockets of the people of this country 18,000,000l. annually more than they would have to pay if the trade in corn were free. The object of the duty must be to raise the price of agricultural produce generally, or it would be of no value at all; and it would be absurd to impose restrictions without a motive, as would be the case if it were true, as some seemed to imagine, that the duty would fall only upon the foreign corn imported, and not produce the effect of raising the price of the whole quantity consumed. In the event of a free trade in corn, the home growth would be less, and the imports of foreign corn greater. The latter drawn from soils of a superior quality than those in cultivation in this country, would be sold with profit to the grower at more moderate prices. It was clear that low prices would be the consequence of open ports, and high ones (the demand continuing the same) the result of the exclusion of foreign corn, provided it did not, as it would, produce great fluctuation of price: a moderate duty, supposing it not to exclude foreign corn, would thus have the effect of raising its price generally in the markets of this country. If the price of wheat were raised, that of every other description of agricultural produce would proportionably be increased. The next point to which he wished to call attention, was, the probable price at which a certain quantity of foreign corn could now be sold in the markets of this country. One datum was afforded by the average price at Rotterdam, from 1815 to 1824, the result of which was an average price for the whole ten years of 47s. 9½d. per quarter. True it was, that in one of the years, 1817, the price rose, on account of scarcity in France and England, to 93s. per quarter; but during the four or five latter years of this period, the prices were unusually depressed, owing to the English markets being closed against the admission of foreign corn. There was, therefore, no reason to imagine it was too high an average; and as Rotterdam was about the same distance from the ports of the exporting countries as the harbours of Great Britain, the probability was, that if our ports were open for the admission of foreign corn, it could not be sold with profit below that price. The average price of wheat at New York, for the five years ending 1824, was 38s. per quarter. This, however, was a period during which no import for British consumption took place, and there was, therefore, no reason to imagine the price higher, than it would amount to under the circumstance of a demand for this country; to this might be added the expense of freight, &c., amounting to about 12s., which would raise it to about 50s. per quarter. Wheat from Odessa could hardly be imported under a price of 44s., including all the charges. From these facts, added to all the information he had been able to collect from the most competent authorities, and whose opinion, with respect to the probable price of foreign corn in the English markets, provided they were open to its reception, he had found to vary between 45s. and 52s., he was at least justified in assuming, that 45s. without duty would be as low a price as that at which any quantity of foreign corn could be imported into this country. If to this were added a duty of 10s. per quarter, it would raise the price to 55s., and that was quite as high as any attention to the real interests of the country, would justify an attempt

to raise it. He was, however, aware that great alarm prevailed amongst the agriculturists upon this subject, and that, judging from the present low prices on the continent, they believed, that if the ports were thrown open for the admission of foreign corn, subject only to a moderate duty, a most serious revulsion would take place in their interests; that, in fact, they would be overwhelmed with a deluge of foreign corn, which would bring back all the tremendous distress which existed during the recent period of low prices. They conceived this more especially, as they inferred from the circumstance of no import having taken place into Great Britain for six years, that there must be a large quantity ready to be poured into this country. He believed their fears were greatly beyond that which the real facts of the case would justify; but he had no objection to meet them by such a regulation, as must be admitted, even by the most fearful, to be a sufficient guarantee against such an evil. He would propose, more with a view to quiet apprehension than as a matter of any real importance, to increase the duty by 5s. per quarter, in proportion as the price declined 5s.: thus at 55s. the duty to be 10s.; from

55 to 50	-	15 per quarter.
50 to 45	-	20 ditto.
45 to 40	-	25 ditto.

It was his belief that this would be, as the high duty formerly was, a dead letter, as he had no idea of prices falling so low under a system of import subject to moderate duties as to call into operation any other than the 10s. duty; but it was the part of true wisdom to make any sacrifices to public feeling, which could be done without endangering the main object to be attained; and with that view and not from any feeling of the utility of the measure itself, he ventured to propose it. The fears respecting the immense quantity of foreign corn which would be poured into our ports, or the opening of the market of this country to its admission, he held to be greatly exaggerated; he did not conceive that at the present moment the whole world could furnish us with a 1,000,000 quarters of wheat; and he had strong reason to believe, that, considering the low state of our stocks, this would not be more than we required to re-establish them. Nor did he imagine that any great revulsion of price would immediately occur. Where a real and not fictitious demand existed, the opening of the ports produced but a slight effect on price; this was exemplified by the opening of the ports (as it was called) for oats last August; the price, when the ports opened, was 28s. per quarter; it declined in September to 22s. 7d. and rose again in December to 23s. 4d.; the quantity imported was 488,000 quarters. With reference to the usual import, provided the law were altered according to the plan he had suggested, he had no reason to believe that it would amount to any quantity which could be considered injurious to our own agriculturists. They might judge of what was likely to be by what had been. The total imports of wheat, from 1800 to 1820, amounted to 12,577,029 qrs., giving an annual average import of 589,906 qrs. The average price of that period amounted to 84s. 6d.; but, during a portion of it, the currency was depreciated, and allowance must be made for such depreciation. If 10 per cent. were deducted from it, they would deduct much more than the real fact demanded; and this would give a me-

tallic price for the period in question of 76s., 20s. a quarter higher than that at which he should wish to see it raised to by any duty they might impose. During the period in question, there occurred 4 or 5 years of decided dearth, when the prices rose to a tremendous height, and a proportionably large import took place. The following were the years of largest import, with the average price of each year:—

	Qra. Wheat.	£ s.
1800.....	1,263,771.....	110 5
1801.....	1,424,241.....	115 11
1810.....	1,439,615.....	103 0
1817.....	1,030,829.....	94 0
1818.....	1,536,080.....	83 8

Whoever would examine the resources from whence these large supplies were drawn, would see at once that nothing but a very high price could have attracted a portion of them to this country. The whole world seemed ransacked, with a view to the supply of Great Britain in periods of dearth; not the products of Europe and America alone were pressed into our service, but those of Asia and Africa were made to contribute to our wants. He did not see any reason to imagine that, with a moderate average price of 55s. per quarter for wheat, we should import upon an average more than we did during the 21 years of which he had taken notice. Supposing, however, the average amount of our annual imports of wheat to be 1,000,000, instead of 600,000 quarters, surely no great alarm need be felt by the British agriculturist. He would still have to supply 13,000,000 quarters; and as the population of the country was rapidly increasing, the demand would certainly not diminish, but, on the contrary, might in a few years be expected most materially to increase. The plan he proposed to the house for an alteration of the law involved the maintenance of a system of averages. He was aware how unfashionable such a system was at the present moment; but, after the most mature reflection, he gave it as his decided opinion, that so long as a duty upon the import of foreign corn continued a part of our system, so long must it be regulated by some such machinery; and he must own, he had no such violent objection to it as he heard generally proclaimed. He saw no reason to doubt that the frauds which were stated to have been committed might be effectually prevented by applying such remedies as the wisdom of the legislature might devise; nor was fraud so likely to be committed, under a system of import, with moderate duties, as under the present law, which established an artificial barrier to all trade in foreign corn, until prices should have reached a given amount. When there was a large quantity of grain in bond, waiting for a market—entailing a heavy loss upon the merchant to whom it belonged—subject to damage and destruction of various kinds—and a most beneficial market existing just without the precincts of the warehouse—there was certainly a premium held out for fraud, such as hardly ever existed before, and which might, in some instances, be irresistible; but the alteration now proposed in the law would at once remove all such inducement: at the utmost, the whole benefit to be attained by fraudulent returns would be a somewhat lower duty than that, at which, without a rise in price in our markets, foreign corn would be admitted. He had no great apprehension that such a motive would induce men of so high

a sense of honour as that which distinguished the character of British merchants, to tarnish their reputation by so dishonest a practice. Supposing even that some inconvenience of this nature belonged inherently to the average system, still was it not necessary to guard against the greater inconveniences of import duty upon so important an article as grain, at periods of dearth? They must be prepared either to continue their duty at whatever price corn might amount to, or they must establish a practicable mode, by which, at a given price, such duty should cease. With respect to the first, he had no idea of a duty, however moderate, being maintainable in a period of dearth. He had no idea of any one who had reflected upon the irritation and feverish excitement always existing in the public mind at such periods, seriously determining upon a law of which that was a provision. Mr. Burke's opinion upon this point was deserving of great weight. He stated in his thoughts and details upon scarcity, published in 1796, that he had observed that the lower orders patiently submitted to any privations on the score of food, so long as they could attribute them to no other cause than the visitations of Providence—but that the moment they detected the hand of government interfering with their supply of food, they became discontented and riotous—they attributed not a portion of their distress, but the whole of it to this cause. This appeared to him a most sound opinion, and he trusted that whatever change the house might determine upon in the Corn Laws, it never would be lost sight of. Some proposed to remedy the evil by entrusting the Privy Council with a power to suspend the duty when they saw reason to do so. He did not know what the present Privy Council might feel upon the subject, but a power more invidious, one more difficult of execution, without giving great offence to conflicting interests—one more calculated to render them odious in the eyes of the people, he could hardly imagine. Others recommended a temporary act to be passed at a period of dearth; but it should be borne in mind, that a dearth was commonly ascertained in October or November, and that Parliament did not usually assemble until February. It would therefore be necessary to call it together for this special purpose, at an unusual and inconvenient season, besides affording food for all that jealousy and excitement which such a proceeding would necessarily give rise to. Few would contend, that, under the freest system of trade, no dearth would ever occur; that it would be rendered less frequent was obvious; but to guard against it entirely was an Utopian speculation, upon which it would be most dangerous to legislate. He must own too, that the imposition of high duties at very low prices, which by removing prejudice, and giving a feeling of security to the agriculturist, would so much facilitate a melioration in the law, weighed much in his mind in favour of a continuance of averages, without which no such provision could be made. The information derived from these averages, together with the convenience the public derived from them in regulating rents and contracts of various sorts, ought to induce the house to pause before they changed a system which had existed for so long a period, and which never, that he was aware of, had afforded ground for complaint until there was grafted upon it an import price, with which it had manifestly no inseparable connexion. He felt most anxious the

house should immediately proceed to amend a law which contained principles so much at variance with every part of our policy—so fraught with injury to the people of this country—so entirely opposed to the spirit and intelligence of the age; and he deeply regretted the determination expressed by Government not to enter upon this important subject in the present session. If ever there were a period when it could be discussed with less risk of excitement on the public mind than another, it was the present. No distress prevailed amongst any class. The interests, therefore, of all parties might be considered with that calmness and moderation so essential to their being thoroughly understood. Those among the agriculturists who admitted a change to be desirable, but recommended the house to wait until the moment of scarcity arrived, surely took an extraordinary view of their own interest. Did they imagine that to be a period, when even their fair claims would be patiently listened to? Did they not, on the contrary, expect that such a feeling would go forth throughout the country—that clamour, not reason—deep rooted prejudice, not fair judgment—would at such a season be called upon to decide upon the subject? It was his full belief, that if they allowed the causes now in operation to produce their full effect before they settled this great question, the agriculturists must expect to be hurried away by the tide of popular feeling, and to be compelled to relinquish all claims, even the fairest and most legitimate, to protection and security.—Many other points remained to be noticed, but he had already trespassed at too great length upon the time and patience of the house, and would conclude by moving “that the house resolve itself into a committee of the whole house to consider of the Corn Laws.”\*

Mr. Gooch said, it did not appear to him that the hon. member had made out a case sufficiently strong to justify him in calling upon the house to accede to his proposition. In the last six years, the average price of wheat was 58s. 3d. per quarter, and he would ask the house whether, considering all the expences to which the farmer was subject, it was possible for him to farm his land at a lower price? It appeared to him, that the present system of corn laws, with all its imperfections on its head, worked well, and afforded the farmer a fair remunerating price. He was not the advocate of high prices, and he considered that 60s. per quarter was a fair remuneration on wheat, and 30s. on barley. He was desirous that every working man in this country should have an adequate recompence for his labour, and should on the Saturday night be enabled to diffuse comfort amongst his wife and children (hear, hear). Nothing, of course, could be more popular than the doctrine of cheap bread. Once raise the clamour about it, and it would naturally run like wild fire through the country; but let the house remember that the expences to which land was subject were extremely high, much higher than the hon. member had stated; there were the costs of roads, bridges, gnaols, county rates, poor rates, and all the rest, all of which fell upon the land. It was a mistake to suppose that the labouring classes suffered in consequence of high prices; they derived

their advantage whilst the farmer enjoyed the benefit of high prices. There never was a period when the country was more prosperous than at present, and at no former period, until the notice of the hon. member's motion, did there prevail a more general tranquillity; he therefore thought the hon. member had much to answer for. It was quite absurd to talk of our being able to compete with foreign countries. They might as well say that if two horses started, the one with a feather on its back, the other with twelve stone, that the chance would be equal. Whilst things continued as they were, such a contest would be impossible; but only let John Bull start fair, and he would back him ten to one (hear, hear). He thought the house should leave “well enough alone,” and should therefore move the previous question.

Mr. Curwen observed, that the agitation of this question brought the manufacturer and the agriculturist in direct collision; and although the country had no security of a supply from abroad, they had a certainty that the proposed alterations would throw much land out of cultivation, which would lead to the most disastrous consequences.

Lord Oxmantown said, that the hon. mover seemed to place too much dependence on the supply from foreign countries. He should be slow in acceding to any proposition having a tendency to injure our hardy rustic population, which constituted the strength of the empire.

Mr. Huskisson said, that he did not intend to advert to the details which his hon. friend had with such great labour and research submitted to the consideration of the house. He should, therefore, only say that he concurred with him in his general principle, that the trade in corn ought to be conducted with the same liberal policy which was adopted with respect to other branches of the commerce of the country; but he did not think that the present time was the most fit for its introduction. In the outset he wished it might be distinctly understood, that it was to the time only that he objected. If it should be the pleasure of the house to go into the committee, he might have to propose measures, differing not in principle, but in degree, from his hon. friend's view of the subject. His opinions on the corn laws were not unknown to the house and country. They were on record in the report of the committee of 1821, and since then he had seen no reason to depart from them. There were few gentlemen, he believed, who were once disposed to differ from that report, but would now concur in its general conclusions; but while they admitted these, he would allow there might still be a great difference as to the time, mode, and degree of making any alteration in the laws as they now stood. He would assert that, with the facts before him, of corn being sold in the ports of France and the Netherlands at half the price at which it could be purchased here, no man would be warranted in contending that the present corn laws could be adopted as a permanent system (hear, hear). We were now in the tenth year of peace, and it was not unreasonable to expect that the price of corn here could not continue so much above that at which it might be procured at the ports on the continent; but if this fact were worthy of consideration, there was another which it was also of importance to bear in mind. For forty years this country allowed a free trade in corn, and

\* This speech has been printed from the reports in the newspapers, and that published by Ridgway; London, 1825.

for every year of that time we imported a quantity more or less from the continent. That importation had been discontinued for the last six years, during which we did not receive from abroad any addition to our home supply. This interruption created one of the greatest difficulties under which we were called upon to revise the present corn laws; for, the consequence of the interruption was, a great accumulation of corn in all the countries from which we were in the habit of importing. To this was to be added, that since we had ceased to import corn, our harvests at home had been more than usually productive; and he believed the same might be said of the other corn countries of Europe. There was then a great increase in the stock of corn on hand in all the continental ports from which we had usually imported, and this was farther increased by the fact that Spain and Portugal, imitating our example, had latterly received less than their usual supply from the northern ports. The result of all these circumstances was, that the supply was at present so much beyond the demand in many of the European ports, that in some corn did not produce half, in others not one third, and in others again not one fourth of the average prices of the last forty years, before they had ceased to export corn to this country (hear, hear). Now it was not travelling into any new theory of political economy to assert that the average price in those ports for the last forty years, might be taken as the fair price, which would give some remuneration to the grower, and that any thing less than that would be a loss to him. From returns which he had seen, it appeared that the average price in Dantzic for the last forty years, before importation to this country was interrupted, was 45s. and a fraction. It must then be evident that any thing much below that price would be a loss to the grower. It would be unfair to infer the real cost price, at the present day, from what the corn would fetch in the market. He would ask the hon. member who introduced this motion—he would appeal to the hon. members for Ireland, and ask what difference would it not have made to that country if, some years back, we had removed its free trade in the export of corn to Great Britain, and not allowed a vent for its superabundant harvests? Would any man say, that the price to which corn would have fallen after such interruption, should be taken as a fair criterion of the cost of production? He was sure no such point would be contended, and he maintained that neither could it be contended with respect to the cost of growing the article in those countries whose import of corn to England had been interrupted. He did not say this out of any particular feeling of compassion for the holders of foreign corn in foreign ports, but merely to point out to the attention of the house, that when we came to any permanent measure for regulating the importation of corn, we should look rather at the cost of producing it in the countries where it was now so cheap, than at the price which it might bring to the grower after so long an interruption of his exports. Another view of the question was, that some of the countries from which we had formerly imported grain, having no other vent for their surplus produce but what our wants under particular circumstances might create, would discontinue to grow corn, and employ their lands to some more profitable purpose;

and that thus the surplus in the market would remedy itself. This was an important feature in the case, when they came to look at the question in another light. His hon. friend had stated, on the authority of several letters from the continent, that this had already been the case in some places—that many individuals had discontinued the cultivation of corn, and had laid down their lands under pasture for large flocks of sheep; and here he begged to state a circumstance to illustrate how the interruption in any one branch of trade tended to affect most sensibly our general commercial system. He alluded to the tax on foreign wool, which he himself acknowledged to have supported some few years ago. The consequence of that imposition was, to have depressed the value of low priced wool on the Continent by excluding it from our markets, that the wool growers of Silesia, and some parts of Germany, established manufactories for coarse cloths, and were able to undersell us in that article, and had in a great degree excluded us from the markets of the United States and South America. The removal of the tax on foreign wool, however, remedied that evil. As soon as it could be imported here, it rose in price to the manufacturers abroad, from twenty-three to thirty-three florins. We were thus enabled to compete with them, and in a short time drove them from their own and the American market (hear hear). He mentioned these facts to show the effects of an accumulation in the foreign market, and the difficulties which it threw in our way at present in bringing about any effectual alteration in the corn laws. He could not disguise from himself the fact, that if we now opened our ports to an unrestricted corn trade, we might introduce all at once the great accumulation in the foreign ports, and thus disgust the home grower with a free trade in corn. That there were inconveniences attending the system in whichever way we treated it, he did not deny, but they were the necessary result of the system which we had adopted in 1815—of that monopoly to which we were in consequence exposed, and which he would show, before he sat down, could not afford a permanent advantage to any party. The question, then, was, with this accumulation in the foreign market, what course ought we to pursue? There were various ways of treating the subject. Those who thought that the home grower ought to have a monopoly up to a certain price, and that above that there should be a free trade, would introduce the same alternation of monopoly and free trade to which he had just adverted; but then the question came—at what price should the free trade begin? His hon. friend the member for Suffolk had in a fair and candid manner said, that looking to the alteration of circumstances since 1815, he should consider the prohibition of corn at 60s. as quite sufficient to afford as fair a remunerating price to the British grower, as 80s. did in the year 1815. This was a fair and honest admission, that the time was not far distant beyond which the present system could not be continued. One mode suggested would thus be to prohibit importation as long as corn did not exceed 60s. here; and another was to have the ports constantly open, with such a duty as would afford a protection to the English farmer. If, however, the reduction were made to 60s., the whole of the accumulation of the ports of the continent would be thrown upon

the country. What the effect of that would be, he would not attempt to describe, though he did not partake of the general fears entertained on the subject (hear, hear). If a permanent duty were to be fixed, how, he would ask, were they to deal with the accumulations on the continent? Were they to be admitted at once, or gradually? These considerations showed the difficulties with which the question was surrounded at the present time, and which could not be expected to embarrass it at another period. The circumstances of the present day, which prevented an attempt to alter the corn laws, were so forcibly alluded to in the report of the committee of 1821, that he should be induced to trouble the house with the extract. After suggesting the propriety of a trade in corn, open to all nations in the world, subject only to a fair protecting duty, the committee proceeded to say—"In suggesting this change of system for further consideration, as a possible improvement of the corn laws at some future time, the committee are fully aware of the unsuitness of the present moment for attempting such a change, when, owing to the general abundance of the late harvests in Europe, and to the markets of this country having been shut against foreign corn for near 30 months, a great accumulation has taken place in the shipping ports on the continent, and in the warehouses of foreign corn in this country; and when that accumulation, from want of any vent, is held at very low prices, and might tend still further to depress the already overstocked markets of this country, if allowed to be introduced at this period, except at such a high rate of duty as it would be inexpedient to attempt, and moreover very difficult to determine. The present market-price of the corn thus accumulated, is not the measure of the cost at which it has been produced, or of the rate at which it can be afforded by the foreign grower, but the result of a general glut of the article, of a long want of demand, and of heavy loss on the part of those by whom it has been raised, and of those by whom it is now held either in the warehouses of the continent or of this country." It was, therefore, evident, that the difficulties which at present existed were fully contemplated by the committee four years ago. He would now, however, observe, that having said the present time was not the most fit for such an allegation, it was not for him to assert, that the whole of the difficulty would be removed by the next session. It was possible, that some vent might be obtained for the glut at present in the foreign market. If it should be absorbed, it would remove one great difficulty in meeting the question; if not, he for one, looking at the time which the present laws had been in operation, and the chance of having better information on the subject next session, would be prepared, when it arrived, to go into the full consideration of it with the view of providing some permanent measure. Difficulties he was prepared to expect; but they were not such as, in his opinion, might not be overcome. Looking back to another great measure—the law for regulating the currency of the country, against which insuperable difficulties were supposed to exist—he remembered what had been observed by an hon. member (Mr. Baring), that those seeming difficulties should not deter the legislature from coming back to the sound principles of political economy. That great measure was carried, and the result had fully justified the

wisdom which dictated its enactment. So he trusted it would be found with the present question. He should in the next session be prepared to concur in some measure which would fix the duty at a certain rate, to be gradually reduced, so as that the supply from foreign countries might by degrees come to its fair level. He believed it was the intention of the legislature in 1821 to give to the British farmer a monopoly of the home-market, for a certain period, in order to redeem the great losses he had sustained; but, by the commencement of the next session, that period would have been sufficiently extended. He could not believe the stock on hand at home to be very great. Indeed, the high price at this season, induced him to think that the supply was little if any thing beyond the demand; and it was not at all improbable, that before the 15th of August next, if the corn laws were allowed to remain in their present state, we might before that period have the whole of the foreign markets pouring in their accumulations upon us. This was a circumstance, which for the sake of the country, ought to be guarded against. He would, therefore, take an early opportunity of submitting a proposition to the house, of opening the stores here, and allowing the bonded corn to enter the market; and after the admission of the hon. member, that 60s. would be a fair remuneration to the farmer, he thought that to this proposition there could be no objection. He could not look at the possibility of having the ports thrown open on the 15th of August to the glut in the foreign market, without feelings of apprehension as to the consequences; and if he could so arrange as to keep the price below that which would admit foreign corn, without keeping it too low, he thought he should be performing great service to the country. The quantity of foreign corn at present in bond in this country, was not so great as was imagined. It was estimated at 394,000 quarters of wheat, and a very small quantity of other kinds of grain. He was sure, that if any gentleman were to object to the admission of this corn, which was calculated to release a capital that had been so long locked up, he must take a very different view of this question from that which presented itself to his mind. It was not from any feeling of regard to the owners of the corn that he made this statement. They had speculated in the article, and must stand by the consequences of their speculation. They might have made a profit out of it; as things had turned out, they had sustained a loss. Considering, therefore, the charges which the parties had already paid upon this corn, and the loss which they had sustained, not only in being deprived of all interest on the capital which had been locked up by it, but also in being deprived of the use of that capital itself, he was sure that if they were now allowed to sell that corn at 80s. per quarter, they would be losers by such a procedure. The proposal which he should hereafter make to the house would be this—that the corn now in bond should come out at 70s. per quarter. Now the averages at the end of March, before this question began to be agitated, were 69s. per quarter, and before this time would have reached 70s. per quarter, had it not been for its agitation. He thought, that when the price of corn reached that sum, the house would not object to the admission of bonded corn into the market, on payment of a duty of 8s. or 10s. per quarter, especially as it would still leave the owners of it liable to a very

considerable loss. They would not be at liberty to take it out of bond all at once; but as four months must elapse before the commencement of the next harvest, they would be at liberty to take it out in four quarterly portions, provided that if the whole of it were not withdrawn by the 15th of next August, the owners of it should be liable to all the conditions upon which it was originally imported. He thought that by such a system, the country would be saved from that revulsion which might otherwise take place, should a large importation of foreign corn take place before the month of August next ensuing. Another advantage which would arise from it would be this—that much of the accumulated corn in this country would be disposed of before the arrival of the period when the corn laws must come under the revision of parliament. He therefore thought, that there could be no rational objection to the details of the measure which he had just mentioned; he should bring it forward on an early day, and he trusted, that he should then be able to convince the house that a duty of 8s. or 10s. per quarter would be quite sufficient for the protection of the interests of all parties concerned in this great question. The house would not, he was sure, expect him to enter upon the views which government took as to the proper course to be adopted upon this subject. The reasons why such a mode of proceeding would be highly impolitic were so obvious, that he deemed it unnecessary to recapitulate them. He could not, however, refrain from dissenting from the language which had fallen from his hon. friend (Mr. Gooch), who had said, "The present law worked well; and why not let well alone?" Now he (Mr. H.) had always understood that the great desideratum in this question was to provide steadiness of price. But how did the present law provide for these ends? By limiting the markets from which we drew our supplies—by destroying the vent which we should otherwise have for our produce whenever we were blessed with a superabundant harvest—and by exposing us to an alternate fluctuation of high and low prices. To say of a system which affected the price of labour and the comforts of the labourer, and which cramped the resources not only of the manufacturer, but also of the farmer himself—that it worked well, was so completely refuted by the report of 1831, that he was surprised that any man should be bold enough to make it. What did they think of its working well in 1822, when corn was as low as 38s. per quarter (hear, hear), and when gentlemen came down to the house nightly to talk of a national bankruptcy, and to propose the most extraordinary changes in the currency? At the present moment it might work well; but had the country gentlemen forgotten their own misfortunes, their former predictions of ruin to the country,—nay, their repeated requests that this system, which now worked so well, should be instantly altered (hear, hear)? In two years, the price of corn had varied from 112s. to 38s. per quarter.—Such a fluctuation in price deprived the business of the farmer of all security, and converted it into a business of mere gambling. The mining bubbles could not produce more gambling than that to which such fluctuations must necessarily lead. The man who engaged in a long lease, could not at present be aware of the conditions upon which he was taking it, or of the results which it might produce upon his family arrangements. This was not the only in-

convenience of the system. Look at the situation in which we were placed, when a bad harvest made it necessary for us to go to the foreign market. The price of corn immediately advanced there: the foreign Government, seeing our demand for it, laid a tax upon the article: this further increased the price—but he would pursue the description no further. To assert that this was "working well" was too gross a fallacy to be entertained for a single moment. An assertion had been made, that if the prices did fluctuate excessively, they still produced a fair average price. A fair average price! He wondered what this phrase meant, when applied to the provisions of the people. He should like to know how any gentleman, who was accustomed to eat a good dinner every day, would like to be kept one week without food, and to be supplied the next with twice as much as he wanted. Would he feel satisfied at being told that he had got a fair average quantity of provisions for each day in the two weeks (hear, hear, and a laugh)? He thought that the gentleman would not be satisfied—that he would find such an averaging system to be neither wholesome to his constitution nor pleasant to his stomach (hear, hear). But it was said that to withdraw our protection from the manufacturers of the country, and to continue it to the corn, was acting upon an erroneous system. He denied this position entirely, and contended, that reasoning from analogy in a case like the present must necessarily lead to an erroneous conclusion. In the first place we could manufacture cheaper than every other country; but every other country could grow corn cheaper than we could. In the next, although in 1775 the duty on cotton had been reduced 10 per cent, we still exported 30 millions of cottons annually. But did we export 30 bushels of corn? Then there was no accumulation of cottons on the continent, but there was an accumulation of corn. When there was an accumulation of cotton, the manufacturer could contract his supply; but could a similar measure be adopted by the agriculturist, when there was an accumulation of corn? Beside these considerations, there were several others, applying to agriculture, and not to manufactures, which were sufficient to convince any impartial man that the argument founded upon this analogy was any thing but logical (hear, hear). He was not one of those who wished to run the risk of endangering the constitution by lessening the rank which the landed interest held in the country. To be admitted into that class, ought to be the ambition of every man who by his industry and his talents had acquired a fortune for his family. He was quite willing, seeing that the rents had already adjusted themselves to the alteration in the currency, and to the improved condition of the country, to give any protection to the landed interest, which would obviate the necessity of any reduction in the relative situation which it now held with regard to the rest of the community. Still it was quite evident that there must be some limit at which foreign corn must be admitted into the country. The difficulty—and it was one which required all the attention of Government—was to see at what point the price of labour was likely to produce such a diminution of profit and of capital to the manufacturer as to compel him to seek protection in a foreign state. Capital and skill could not be compelled to remain in this country—they were certain to emigrate if they



were impeded by burdens they were unable to bear; it was therefore the duty of the house to watch the effect of the price of labour on the advantages we at present possessed; and if gentlemen reflected that it was to the capital and skill which our manufacturers possessed that the agricultural interest owed its present prosperity, they would see that if their capital and skill were removed from us, the agriculturists in the long run must be the greatest sufferers. At this moment America, which procured the raw material more easily than we did, was manufacturing cottons so cheaply as to be driving our cottons out of the market. At this moment American cotton goods were on their passage to different ports in the Mediterranean, and were selling there at a price at which we could not afford to furnish them. If capital had not a fair remuneration here, it would seek for it in America. To give it a fair remuneration, the price of labour must be kept down to a certain point. An hon. member had stated, and almost as if it had been a reproach to them, that the workmen of London had roast beef and plum-pudding on Saturday, Sunday, Monday, and Tuesday. He did not mean to assert that they had it not, and he had little doubt that they were accustomed to wash such dainties down by large draughts of the ancient and constitutional beverage, beer. Now he would wish the hon. member the next time that he presided at the Farmers' Club, to ask the members of it, whence came the roast beef, the plum-pudding, and the beer, on which the workmen banqueted, and what would be the condition of those who produced these articles, if the workmen could not procure money to purchase them? Agriculture could not flourish, unless all other classes in the country were in prosperity. Commerce and manufactures could not be sustained here, if they met with greater advantages in other countries. The profits now derived from them were smaller than they had been at any former period; and any thing which tended to increase them would be productive of great benefit. He mentioned this circumstance to prove, that it would be necessary to enter at a future time upon the revision of the corn laws; though he maintained, as he had before done, that the present was not the moment for commencing it. We had done a great deal already to promote the freedom of trade; but every thing could not be done at once. We had allowed the importation of wool, of iron, and of various articles which had formerly been prohibited; and the effect of that measure had been to produce a large importation of the prohibited articles. Some difficulty might arise, if we proceeded too far in such a system; and it was therefore prudent to wait awhile where we now were, to see whether such difficulty would arise; and if it did arise, how it was to be obviated. There were other considerations which deserved the notice of Government. We knew that several foreign countries were in some distress, owing to our exclusion of their corn, and that they had, in revenge, shut out our manufactures. It might be worth while to consider, whether we did not hold in our hands at present the keys of solving this difficulty—whether, to those who excluded our colonial produce and our manufactures, we had not a right to say, “We will not admit you to the benefit of a free trade in corn, unless you will at the same time admit the free introduction of our manufactures?” This was one of the principal

reasons why he thought that this question might be permitted to stand over to a more convenient period. He was aware of the responsibility which was incurred by ministers in general, and by himself in particular, in recommending to parliament not to legislate on this subject at present. Circumstances might arise beyond the reach of human thought, which, by their effects and consequences, might induce him to regret that he had offered such a recommendation to it. The risks arising out of such circumstances were not, however, faults of his creation, but faults of the existing system. He was not shutting his eyes against them, but was judging from all the circumstances of the case, when he said that at present he thought it right to postpone the discussion of the corn laws to another session. He complained of the excessive speculation which was now going forward, not only in shares and companies, but also in foreign merchandize. Such speculation was the offspring of unnatural excitement; and in the body mercantile, as well as in the body physical, such excitement was generally followed by depression and exhaustion. He called upon those who to a certain degree were the controllers of the currency, to watch with care and diligence over the foreign exchanges; and implored the country banks not to lend their money to the encouragement of crude and hasty speculations. One of his great reasons for not letting the corn laws loose at present, was the excessive speculation which was now so prevalent. It had already deranged the foreign exchanges, and he wished not to derange them further by opening the door to similar speculation in foreign corn (cheering).

Mr. Baring agreed with the rt. hon. gent. as to the dangers which were to be apprehended from the disproportion between the price of food in this country and its price elsewhere; but he drew from the existence of those dangers a very different conclusion from that which appeared to have been drawn by the rt. hon. gent. It was necessary for us to look at the consequences likely to arise from that disproportion at a time when we could do so with coolness, and without alarm. He confessed, that after the speech of the rt. hon. gent., he was utterly at a loss to know what were the intentions of Government for the next year, or what ideas it wished to excite regarding them in the country. If such were the uncertainty prevailing among members who had heard the speech of the rt. hon. gent., what would be the uncertainty prevailing to-morrow amongst those who had not heard it, and who would only be acquainted with it through the medium of others? If any hon. member were asked by his constituents, to tell them what the intentions of Government were on this subject, could he answer the question? He admitted, that the agricultural interest of the country was entitled to protection from parliament, from having enjoyed it so long. But the indulgence ought to be limited by the prosperity of the country; for if its industry could not bear the monopoly of the agriculturists, the manufacturers must be distressed, and their distress would revert with tenfold force upon the agriculturists. If it were true, as he believed it was, that the inhabitants of England paid twice as much as those of France for their food, he should like to know what it was that enabled them to support that additional expense? Was it not their artificial industry? As soon as that was stopped, millions of pau-

pers would be thrown upon the country, and the land would be burdened for their subsistence. Distress might fall upon the manufacturers at first, but it was certain not to be long in pressing on the steps of the agriculturist. Still desirous as he was of giving adequate protection to the manufacturer, he was not willing to withdraw it hastily from the agriculturist. He conceived that such a change would be pregnant with danger to the landed interests, and therefore he deprecated it. With respect to the amount of an importation price, he rather thought with the hon. member (Mr. Gooch) that about 60s. per quarter would be the mark. He concluded by urging the house to investigate the subject without further delay.

After a desultory conversation between Col. Wood, Lord Althorp, Mr. S. Wortley, Mr. Wodehouse, Mr. Calcraft, and others,

The Chancellor of the Exchequer insisted that had the Government taken up the question of the corn laws on the present session, they would, from the very nature of the subject, and its probable operation upon other matters connected with the affairs of the country, have been disabled from introducing and perfecting those other measures which were universally acknowledged to be of the most beneficial tendency to all classes of the people. This was, he thought, an answer to that branch of the argument. He acknowledged that he had been a party to the corn bill of 1810 which he had opposed in 1815. The reasons were, that the intervening years had produced results upon which no wisdom could have been calculated; and he had discovered, with many others, that the course of events was beyond parliamentary control. He had, then, no difficulty in retracting opinions which experience proved to have been founded in error. He could not allow that government was now to blame, or that it was bound to take this question up, because against its inclination it had been brought into discussion.

The house divided.—For the motion, 47; Against it, 187; Majority, 140.

FRIDAY, APRIL 29.—Mr. Hume presented a petition from a district in the county of Devon, complaining of the enormous prices of provisions of all kinds, and expressing a hope that the duties on grain would be reduced to some such standard as would better enable the working classes to afford their labour at the present lowered rate of wages.

Mr. Maberly begged to call the attention of the house to a subject which he thought had not yet been sufficiently attended to by the house, but which was strongly suggested by the petition. Ministers had lately adopted a variety of regulations relative to the encouragement of our commerce and free trade in our manufactures. The result of all those arrangements would be, to let in the labour of the continent to compete with our labour. But how could cheap labour be long subsisted in England, while the prices of food were so excessive as they now were? How was it possible that our manufactures should long be able to contend with the manufactures supplied by the cheaper labour of the continent, while the high duties on imported corn were kept up at their present standard? Ministers should have paused before they ventured upon adopting such regulations in respect of our trade and manufactures; they should have considered the corn laws in the first place, and should now consider them, before they took any other steps in regard to our commerce. If

this course were not immediately adopted, some very considerable evil would be sure to follow upon its neglect. The manufacturing gentlemen would soon discover the manufactures of the country not to be in so flourishing a state as they now were. We relied mainly on our skill, indeed; for as to manual labour, it was obvious that in that we should be undersold. But he would entreat gentlemen not to rely too implicitly even on our skill, for America possessed that quality too; and it was only on the preceding night that the Chancellor of the Exchequer himself had informed the house, that America could compete with our skill in the cotton manufacture. This subject was altogether of the most serious import.

### *Bonded Corn.—Canada Corn.*

MONDAY, MAY 2.—On the motion that the house should resolve itself into a committee on the acts relating to the importation of corn,

Mr. Curwen trusted that the rt. hon. gent. (Mr. Huskisson) in proposing to the house any measure on this subject, would state, upon some satisfactory grounds, that a want of corn was likely to be experienced; as that could alone, in his (Mr. C.'s) opinion, justify an alteration in the present system. He had no doubt that any regulation which should have the effect of preventing the averages from rising too high, would be beneficial to the country; but he repeated, that in order to justify any alteration, it ought to be made out that the home supply was not, or was likely not to be, equal to the necessary consumption.

Mr. Curteis said, it was the general opinion here and in Ireland, that the produce would be amply sufficient for all the wants of the country in the present year. To propose any alteration which should have the effect of reducing the present prices of corn would, he thought, under such circumstances, be a breach of faith with the farmers.

The house having resolved itself into a committee,

Mr. Huskisson wished only to bring before the consideration of the house, the law relating to foreign corn as it now stood, and the facts connected with that law, in order that they might both be distinctly understood. They were, then, simply these.—In the year 1815, an act was passed by which all foreign corn was prohibited from being admitted into the ports of Great Britain whenever the average price should be under 80s. per quarter. A subsequent act of 1822 left the last act unaltered, but it provided that foreign corn should be admitted when English corn had reached 70s. per quarter, upon payment of 17s. per quarter. This was the state of the law at the present moment, with regard to this description of corn. It had occurred to him, and also to others who had paid attention to the subject, that under the present circumstances, looking to the high prices which corn had reached, and to the deterioration which the corn now in the warehouses and under hand was likely to suffer, it was desirable that some facility should be afforded to the admission of that corn for home consumption, until the supply which the next harvest would afford should be available. This view was taken, not for the benefit of the holders, but for that of the public. No other consideration could have induced the government to recommend a departure from the present regulations which affected this branch of

commerce. Now, with respect to the facts, he begged to remind the house that three weeks ago the price of English corn was 69s. per quarter. Since that period the price had been gradually rising. Hence he had a right to assume that the former low prices were the consequences of an unnatural stagnation, and that the rise had taken place owing to the time of year and the belief that no alteration was to be made in the existing laws, at least during the present year. With respect to the bonded corn, the holders might now bring it into the market when the average price was 70s. on payment of 17s. But those persons, under the expectation that prices must rise, would perhaps abstain from sending in their corn, because as they knew that they could always bring it in at 70s., on payment of the duty, they would believe that they might as advantageously release it at 80s. on payment of no duty at all. The object of the present regulation was, therefore, to induce the holders to bring the corn into consumption before the 15th of August next. He had been induced to fix the duty at 10s., believing that amount would be sufficient at once to secure the public, and to induce the holders to bring their corn into consumption; but he had heard that even with this duty, the holders would prefer to keep back their corn until after the 15th of August, in the hope that the average price would then have reached 80s. If, in the course of this discussion, the 10s. per quarter should be thought too high, and that it would defeat its object, he was not indisposed to lower it, for it was not a question of high or low duty, but of what regulation it would be most advantageous to adopt for the benefit of the public and the consumer. His proposition would be this—that the holder should have the option of bringing out his stock in portions of one-third at a time. There would be a space of three months between the passing of the bill and the 15th of August, when its provisions were to terminate. During this period the corn now in the warehouse was to be admitted upon payment of a duty of 10s. per quarter, after which the present regulations were again to come into force. The committee would therefore see that this measure, besides the objects he had mentioned, would accomplish that of preventing corn from reaching too high a price. The quantity of corn now in the warehouses, including a small quantity of barley and Canada corn, was about 400,000 quarters. The effect of its introduction must depend chiefly upon the supply at present in the country. In the year 1820, the introduction of a very small quantity of oats had depressed the markets very materially; and in the last year the same circumstance had produced no such effect. From the state of the markets throughout the country, as well as that of London, it was evident that there was a tendency to increase in the prices of corn. He was therefore entitled to contend that this introduction ought not to be complained of by the holders. Part of the wheat which it was the object of the measure to release had been in bond six years. Some of it had arrived here just at the period when the ports were closed in 1819, and other parts had been actually shipped at that period, and had been kept back by contrary winds, until after the passing of the act in that year. It was, however, wholly impracticable upon such a question to enter into a consideration of the interests of any individuals. The regulation was proposed solely upon public

grounds, and however it might serve hereafter to point out any alteration in the corn laws generally, it was intended now to apply solely to the corn under bond. The other resolution which he had to submit was relative to Canada corn, of which there was now in this country about 20,000 quarters. It was, perhaps, hardly necessary to legislate upon that quantity, since it would be liberated by the operation of law, at 67s. per quarter. He should, however, propose immediately to set Canada wheat free, upon payment of a duty of 5s. per quarter. The freight could not be less than 14 or 16s. per quarter, and this would, probably, be quite a sufficient protection. He concluded by moving resolutions for carrying into effect the propositions he had submitted.

Mr. *Baring* concurred in the proposition before the house, and believed it would be a desirable and wise measure to let in this foreign corn. He thought it would be unwise to limit the period to the 15th of August, because the holders might not be disposed to bring in their corn until the last moment. He should rather it were restricted to a month or six weeks at farthest, which would be quite long enough for all useful purposes, and would prevent the speculations which the nearer prospect of the harvest might give rise to.

Mr. *Bennet* contended, that the admission duty on the bonded corn ought not to be less than 17s. a quarter. Say only that corn was imported at 32s., the duty of 17s., making 49s. would still be a bounty upon bringing it into the market. To let the bonded corn in at 10s. duty, would be to give a bonus to the importers of 140,000l., which might much better be added to the revenue for the year. Such a course would amount to little less than a breach of the understanding which had been entered into with the home grower.

Mr. *L. Foster* believed that the letting in the bonded corn at that moment, at any, and at whatever duty, would be the best thing that could be done for the benefit of the home grower. If once the ports were opened, which would certainly be the case if this measure did not pass, the whole six years' accumulation of wheat which was now lying in the ports of Prussia and Poland would be poured in upon us, and give a shock to the landed interest which it would be years in recovering. The corn to which he alluded was now selling on the continent for 20s. a quarter; freight and insurance included, it could be imported at 28s.; that was the evil that the agricultural classes really had to fear. The hon. gent. sat down by stating that he was in favour of letting in the bonded flour, as well as the wheat, but at a duty of 4s. per cwt., instead of 2s. 9d., which he did not think sufficient.

Gen. *Gascoyne* supported the admission of the bonded corn, and contended that it was an aid given to the land-owners, rather than any benefit to the public. He was of opinion that, even at 10s. duty, the corn let in would not be brought to market, but kept to take the chance of higher prices. He therefore moved as an amendment, that the admission duty should be 8s. only.

Mr. *Sykes* said, that it had never been intended that the revenue should derive any gain from the duty on corn; and the measure proposed was only one of justice, and of tardy justice, to the importers.

Mr. *Ald. Thompson* thought that there was

1,000,000l. of capital locked up in the bonded corn, which Government was bound to set at liberty the moment it could be done with safety. He should move, as a farther amendment, that the admission duty should be 5s. instead of 7s.

Col. Wood was opposed to the resolution because he deprecated any thing that looked like breaking in upon the corn laws. He had no fear of any advance which would be injurious to any party.

The *Chancellor of the Exchequer* was in favour of bringing the bonded corn out at once, and thought that the sense of the house was decidedly in favour of the proposition of his rt. hon. friend. He would not support the resolution before the committee, if he thought it would have the effect of keeping the bonded corn out of the market, but he did not believe it would have that effect. He could assure the committee, that he did not recommend the 10s. duty in preference to the lower sum, for the miserable addition which it might make to the revenue, but for other considerations.

Mr. Maxwell said, he would admit that the British farmer had a right to expect a protecting duty equal to the tithes, poor rates, and those other imposts which pressed peculiarly upon him; but beyond this the house ought not to go.

Mr. Monck understood the high duties to be sought for for the protection of the country gentlemen, because, as the house was informed, they were men who lived on their estates, and spent their money in the country; and they were also most valuable to the state by acting as unpaid magistrates. Truly, all these were most important services, but he did not see that they were altogether unrequited. From the calculations which had been made, it appeared that the effect of the present corn laws was to raise the price of the quarter of wheat to 70s., and that without them it would not exceed 56s. Now, taking our consumption at 14 millions of quarters, as was contended by some hon. members, here was a duty upon the great body of the people of 14 millions, for the benefit of the country gentlemen. He did not mean to say that their services were overpaid; but after this, he hoped no man would assert that they were wholly unpaid (hear, hear). He should support the original resolution.

Mr. Western said, that if he concurred in the proposition at all, it would be in the terms of the original resolution. On the general question of the Corn Laws, he would observe, that on the whole the consequences had been beneficial to the country. Had it occurred, as was predicted, that the price would never be under 80s., if ever the corn bill passed? On the contrary, had not that price been lower since than it had been for some years before? He did not think those laws had been fairly dealt with. Hon. members had talked of the great fluctuations in price; but it should be recollected, that the high price of 112s. occurred while a free trade existed, and that the low price of 38s. was under the protecting duty.

Mr. Huskisson denied that the country was satisfied with the corn laws as they now stood. On the contrary, there was, he contended, a very general wish for their repeal.

The resolution was put, and carried without a division.

On the motion that all restrictive duties now

in force on the importation of corn from our North American colonies should cease, and that there should be imposed in lieu thereof a duty of 5s. per quarter on all wheat imported from those colonies,

Mr. L. Foster contended, that without investigation, we had no data on which to decide whether 5s. duty was the proper sum at which importation from Canada should take place. That investigation had not taken place; and if in the absence of it hon. members were prepared to say that 5s. should be the duty at which corn should be imported from Canada, he did not see what should hinder them from going at once into the whole question, and deciding what should be the duty at which we might import it from Danzig. The price of wheat at present in Canada, they were told, was 38s., the expense of its transit across the Atlantic was 12s. per quarter, and the proposed duty 5s. which would make the quarter here 55s.; but what proof had they that 38s. was the average price in Canada? It might be much less for any thing the house knew at present on the subject. The hon. member then entered into a statement of the prices of corn in Amsterdam for the last five years, which showed that the average price in the whole of these years was not more than 32s. 7d.; and he contended that it could be imported at the same rate into this country. Under those circumstances, he did not think it would be wise to alter the laws with respect to the introduction of foreign corn. We had tried the extremes of prices. We had corn at a high price, and we saw the good effects of it operate on the manufacturer, who got a proportionately good price for the article of his trade. We had afterwards very cheap corn, and the manufacturers had to deal only with bankrupt customers. He concurred in the observation made by an hon. friend on a former evening, that 60s. or 60s. might be a fair remunerating price, but he did not think that, without some investigation, the market ought to be opened permanently to Canada corn at 55s.

The *Chancellor of the Exchequer* said, that his hon. friend could not see why Canada should be excepted from the general rule with respect to the importation of foreign corn. Did his hon. friend consider that Canada was one of our colonies—that its inhabitants were our fellow-subjects (hear, hear)? If the argument of his hon. friend were of any force, might it not apply to a regulation by which (in 1806) we admitted Irish corn into this country (hear, hear)? What would his hon. friend say, if the same objection had then been made which he now made to the importation from Canada—and he could assure him there had been many who entertained apprehensions lest that measure should be found injurious to the corn trade of England? But had we no other motive for dealing with our North American colony? What had been the conduct of Spain to her colonies? Every thing which the most narrow policy could dictate she practised to check their prosperity. She prevented even the cultivation of the vine among them, and did all in her power to cramp their energies in every way; and what was the consequence? She lost them (hear, hear). Were we to imitate such an example? The Canadians had nothing, they could have nothing but their raw material to send us, and it was our interest and our duty to give them encouragement for its growth.

His hon. friend seemed to forget the vote which the house came to last year, for the purpose of enabling great numbers of the poor half-starved peasantry of Ireland to pass over to Canada in order to settle there, and that a similar vote was passed in the present year. Were we now, after having induced those unfortunate persons to emigrate, to turn round on them and say that we would give no further encouragement to their labours (hear, hear)? He trusted the committee would look on this subject with a more liberal feeling towards those parties at home and abroad who might be affected by it.

Mr. Newman was favourable to the importation of corn from Canada, but great precautions ought to be taken to prevent our receiving the corn of the United States instead of that of our own colony. He was informed, that in contemplation of the present measures, cargoes of corn had been sent from Europe, in order to be re-shipped from Canada to this country. Any attempt of this kind ought to be strictly watched.

Col. Wood could not concur in the resolution, for if they agreed to it, there was an end to the corn laws. By those laws it was enacted, that when corn reached 67s. heve, the market should be open for Canada corn at a fixed duty. Now, the fair way to deal with that would be to lower the opening price, but not to make that great departure from the corn laws, so as to say that at all times our market should be open to Canada corn at the low duty of 5s. All that the agriculturists wanted was a remunerating price, and it was the interest of all parties in the country that they should have it.

Mr. Baring supported the resolution on the ground that the real consideration with regard to the Canadas was that which had been stated by the Chancellor of the Exchequer. It was preposterous to suppose that corn would be sent from Danzig to Canada, and imported from Canada into this country. The freight would be so high as to render such a trade any thing but profitable. It was equally preposterous to suppose that it would be sent into Canada from the United States for such a purpose. In coming to Canada from the United States, it must cross a broad river; and it was almost impossible that in doing so it would escape observation.

Mr. Huskisson contended for the propriety of the resolution. The Canadas drew all their manufactured goods from England, and ought to be allowed to send us in return for them their staple, which was corn. At present they were allowed to send it here, but as soon as it arrived it was placed under lock, and remained useless until the markets reached a certain price. The consequence was, that the bills of the Canadian merchants had been protested, and our own manufacturers deprived of payment. He would ask, whether the Canadians ought to suffer such indignity; and whether it could be expected that they would long submit to brook it quietly?

Mr. Newman said that he was credibly informed that a vessel was at that moment chartered at Hamburg, to go to Canada with corn, which was afterwards to be imported into England. The idea, therefore, of such a trade was not quite so preposterous as the hon. member (Mr. Baring) seemed to suppose.

Mr. Lockhart opposed the resolution, and contended on the authority of Tacitus, that it was not the interest of the mother country to extend too much protection to the agriculturists

of a colony. During a famine in the reign of Claudius, it was discovered that there were only 15 days' provision in Rome. This created considerable consternation, and Tacitus in describing it mentioned with great regret and indignation, that in consequence of certain immunities granted to the colonies, Italy, which had formerly exported corn to all her provinces, was left at the mercy of Sicily, Egypt, and Africa, for the daily support and maintenance of her inhabitants. He trusted that the rulers of this country would take a hint from the remarks of that author, and not leave England dependent on any foreign nation whatsoever for a supply of the most requisite necessary of human life. The resolution was then agreed to.

FRIDAY, MAY 13.—Mr. Huskisson moved the third reading of the Bonded and Canada corn bill. He was satisfied that the owners of warehoused corn would not fail to bring it into market before the next harvest, if they had an opportunity of doing so; because, if the corn in foreign ports should be imported, it would bring the price much lower than that which they could obtain for it now. With respect to what had been said about the importation of American corn, he had conversed with persons who were perfectly informed on the subject, and he found that during the time when corn was at the highest price ever known in this country, there never was more than fifty thousand quarters of Canadian corn imported. The lowest price at which corn of the United States could be landed at Montreal, including the expense of carriage, the risk, and the duty, was from 20s. to 25s. In order, however, to allay the fears of those who dreaded the importation of American corn, he had no objection to say, that if, during five years, the average importation of what was called Canadian corn should exceed 100,000 quarters, he would take that fact as evidence that there had been a fraudulent importation of American corn, and that it was necessary to adopt some measures to guard against it (hear).

Mr. H. Sumner wished a clause to be introduced into the bill, to limit the importation of Canadian corn to a hundred thousand quarters.

The Chancellor of the Exchequer begged to remind those gentlemen who supposed that large quantities of American corn would be fraudulently introduced into the home market, that the measure before the house was intended for the benefit of the Canadians themselves, who would therefore have an interest in preventing such a proceeding (hear). There were so many difficulties opposed to the fraudulent introduction of American corn, that he believed the thing was almost impracticable. In the first place, the corn must be brought from some port in Lake Champlain in an American ship, and be landed at Kingston, Montreal, or Quebec; it must then be put on board a British ship (for only in such a vessel could it be brought to this country from Canada); and before all this could be done, it was necessary that perjury should be committed over and over again, and the vigilance of the Custom-house be defeated, which would be somewhat difficult, seeing that a cargo of corn was a bulky article, and not easily transported, particularly in a country like Canada, where the roads were not very favourable, and the points of communication hundreds of miles from each other. If gentlemen would study the geographical situa-

tion of the two countries, they would find that there was no ground for their alarm.

Sir E. Kestchbull would not concur in either high or low rate. He did not think any alteration in the corn-laws was necessary.

Mr. Curlews deprecated the spirit of innovation by which ministers appeared to be animated. They seemed to be bitten by a strange sort of mania; not the hydrophobia certainly, for they wished to bring every thing across the water; but by an innovating mania, which in his opinion, was little calculated to promote the best interests of the country.

Mr. Whitmore observed, that there was very great misapprehension as to the quantity of corn imported into this country from Canada. From returns which he had seen, it appeared, that from the years 1800 to 1830, the annual average amount of wheat imported from thence did not exceed 23,000 quarters.

The bill then passed.

**LORDS, TUESDAY, MAY 31.**—The Earl of *Liverpool* moved the order of the day for the house to resolve itself into a committee on the Bonded corn and Canada corn bill.

The Earl of *Malmesbury* feared that corn from the United States would be introduced into this country as Canadian corn. He would therefore move, that it be an instruction to the committee to omit so much of the bill as admitted of the importation of Canadian corn.

Earl *Bathurst* contended, that it was next to impossible that wheat could be clandestinely introduced into Canada, and thence imported into this country, under the pretence of its being Canadian produce. If it should ever happen, which he did not anticipate, that the quantity of grain imported from Canada should be so large as seriously to affect the interests of the cultivator in this country, there would exist no objection to revise the law which it was now proposed to enact.

The Earl of *Lauderdale* wished the bill to be divided into two parts. He could see no connexion between that part of the measure which related to bonded wheat and that which permitted the importation of Canadian corn. With respect to the latter subject, their lordships were called upon to legislate without being in possession of the requisite information. No return had been made of the price of corn in Canada since 1820.

The Earl of *Liverpool* said, that when he considered that it was impossible that the general question could be taken into consideration this session, he thought that the proposal with respect to bonded wheat would be advantageous to the consumer, and also to the landed interest. It would be advantageous to the consumer, because it would operate as a check upon the rise in price; and it would benefit the landed interest, because it would prevent the price advancing to such an extent as would authorise the opening of the ports, and thereby create a glut of the market. But he attached but little importance to that part of the measure compared with the other part, the object of which was to admit Canadian corn into this country on more favourable terms than had hitherto been allowed. He considered that measure to be most essential and sound in principle. Their lordships had been engaged, this session, and most wisely, in his opinion, in pursuing a system for the extending our commerce and trade, by getting rid of monopolies and restrictions. Did any man believe that it

was possible to adopt such a system with respect to some articles, and to exclude from it the very article which, of all others, was the most important? The system of monopoly from which this country had recently been engaged in extricating herself, was not our fault. It was the system of the whole world. But now, when other countries were becoming free and independent with respect to trade, did it become us to act upon such a contracted, such a dangerous principle, as would lead us to withhold from our own colonies the benefit of a free trade? Even if parliament should determine to adhere to the present system of corn laws with the utmost rigour with respect to the rest of the world, he would advise that to our own colonies the benefit of a free trade should be extended. It was idle to contend that any inconvenience would result from the proposed measure; he thought the contrary would happen. The expense of freight and insurance on corn imported from Canada could not be less than 12s. The idea of the United States' corn being clandestinely introduced, was absurd. The price of corn fluctuated from 36s. to 40s. per quarter in that country—prices which would afford no temptation to the American exporter. It should be recollected that Canada took our manufactures, and we should therefore enable her to get the means of paying for them. He did not grudge Ireland any of the benefits which she enjoyed, but let their lordships consider the difference in the amount of taxes which Ireland and England paid. Even Poland, at the present moment, paid higher taxes than Ireland. He strongly advised those who were connected with Ireland not to adopt the principle of keeping down the colonies which were dependant on Great Britain. The free importation of corn from Ireland was not one of the conditions of the Union, but had been wisely established by acts passed since the Union. The importation of corn from Ireland was viewed with extreme jealousy when it was first proposed, but no inconvenience had resulted from it. When this was the case with regard to a country scarcely removed from this, and paying hardly any taxes, what danger or inconvenience could rationally be expected to arise from the importation of corn from Canada? He would have their lordships to consider where Canada was placed—to contemplate the prospects which were opening in other parts of America, and then to say whether Canada was not the colony, which of all others, ought to receive encouragement from the mother country. Every principle of free trade, of justice towards a dependency, and of sound policy, called upon their lordships to adopt the measure before them. The more he considered it, the more firmly was he persuaded that all the ideas of danger resulting from it were visionary.

The Earl of *Rosslyn* said, that the principle upon which the noble lord called upon their lordships to agree to the measure before them was, that of making a breach in the whole system of corn laws. He considered the measure as the first step towards the adoption of a system which would dissolve all existing contracts between landlord and tenant.

The Earl of *Liverpool* said that the noble lord who spoke last had completely misunderstood his argument. He had not contended for the adoption of the measure as opposed to the principle of the corn laws, but had called upon their lordships to agree to it as a favour to our own colonies, even if we should resolve to

maintain our present system of corn laws against all the world.

The Earl of *Limerick* opposed the bill, the operation of which, he believed, would be no less injurious to the landed interest than to other national interests, which would, perhaps, engage more of the consideration of the house. The shipping interests, and the useful nursery for seamen which our coast-trade at present formed, would be destroyed by the admission of foreign corn in the way that was now proposed; and at some future time, when perils threatened our country, we should look in vain for that host of able defenders who had heretofore made our navy the pride of England and the terror of all the rest of the world. He saw no grounds upon which this measure was recommended, excepting by a vote of a public meeting of certain persons in the city of London. Now, with all possible deference, and with the highest opinion of the respectability of the persons composing that meeting, he thought, from their habits, and from the motives by which it might be reasonably supposed that they were swayed, that they were not the fittest judges upon this subject. As little was he disposed to coincide with the crude opinions of the professors of that new philosophy of political economy, no two of whom agreed in the doctrines of their sect. He resisted this vote, because he considered it as the advanced guard of an attack hereafter to be made on the general corn laws of the country.

The Earl of *Enniskillen* begged to call before the attention of the house the difficulties under which Ireland had so long laboured. The landed proprietor had been for many years compelled to live upon borrowed money; and now that those difficulties seemed to be removed in some degree, and the nation was recovering that prosperity to which it had so long been a stranger, an attempt was made to put an extinguisher upon it. The men of landed property ought to stand by one another. If they did not the landed interest would overwhelm them. He regretted to be obliged to oppose the measure, but he felt that he was compelled to do so.

The Earl of *Caernarvon* said, that whatever might be the objections to this alteration in the corn laws, it must in all cases be much better than the alternate effect of closing the ports altogether, and admitting corn without any restriction. With respect, however, to Canada, as there was no probability of these effects reaching the corn sent from that country, he thought this part of the question might be safely postponed until the next year, when the whole subject would probably come under the consideration of the house. He believed that an alteration of the corn laws would, upon the whole, be beneficial to the landed interest.

Lord *Redersdale* said, he was induced to offer his opinions on this subject to the house, chiefly because, as it appeared to him, one very important point had been kept out of their lordships' view. The constitution of this country was founded upon, and could never be safely separated from, the landed interest. To talk, therefore, of a free trade in corn, was at once absurd and dangerous. It was impossible that such a free trade could ever exist, consistently with the safety and prosperity of the kingdom. With respect to what had been said as to the trade with Canada, he, although he had every wish that the commercial advantages of that colony should be extended as far as possible, could not concur. The principle of admitting

the corn grown in Canada, if it were once recognized, must be acknowledged to its fullest extent; and were their lordships prepared to say that they would admit all the productions of Canada on the same footing as those of this country? The landed interest of England, exclusive of the claim which its connexion with the very spirit of the constitution entitled it to, had also a right to protection, because it was more heavily assessed than any other description of property. Upon these grounds, then, he objected to the bill before the house; and even if these did not exist, he should object no less to any measure which might have the effect of placing the corn trade of England upon the same footing as that of any foreign country. He believed that to do this would be to adopt a false and dangerous policy, and one which was opposed to the soundest maxims of national economy. The land was, in his opinion, the foundation of all our wealth, and from it every other description of advantage flowed. This had been the idea entertained by all our old writers on political economy, and experience had proved that they were not mistaken. His lordship concluded by expressing his intention to oppose the bill.

The house then divided on the amendment—Content, 27.—Proxies, 7.—Total, 34.—Non-content, 24.—Proxies, 15.—Total, 39.

Further consideration of the subject was postponed to Monday next.

MONDAY, JUNE 6.—The Earl of *Liverpool* moved the order of the day for committing the Bonded and Canada Corn bill.

Lord *King* would vote for the bill, which he hoped would be the forerunner of a better next year. The present corn bill had been passed many years ago, when we were said to be in a transition from war to peace. The transition, however, had lasted long, and 17,000,000*l.* of taxes had been reduced without any alteration in the corn laws.

The bill was then committed.

The Earl of *Malmesbury*, though he objected to this measure, disclaimed any wish to raise his rents, which had been imputed to the landlords (by Lord *King*). He then proceeded to object to the clause under consideration, on the ground that it did not afford sufficient protection to the English farmer. The proposition was founded on the new principles of free-trade, which never could be applied to the productions of the land. His lordship concluded by moving that the clause be omitted.

Lord *Lifford*, in opposing the clause, disclaimed acting in the spirit of a monopolist. As manufacturers became informed, they would see that their interests were intimately connected with those of the agriculturists.

The Earl of *Liverpool* would not, at present, say one word on the general question of a free corn trade; but even those who most strenuously argued the expediency of such a system, never laid it down without reserving some protection for the agriculturists. He contended, however, that a liberal system was attended with no danger whatever from America; the waters of the Atlantic were a sufficient security against that. The average importation from Canada for twenty years was 16,000 quarters annually; the largest quantity that had been imported from thence in any one year was 47,000 quarters: if this bill were to pass, many years must elapse before 100,000 quarters could

be imported. It had various difficulties to contend with; the duty was 5s., and the insurance and freight was 12s. 6d., besides which, the trade was shut up for six months in the year, and confined exclusively to British ships. So far from being injurious in its consequences to agriculture, he maintained that this measure would be beneficial to it, and therefore it was most extraordinary to him that any prejudice should exist against it. But, on the other hand, had any noble lord reflected on the immense importance of Canada to this country? Between one-fourth and fifth of the whole mercantile navigation of this country was employed by Canada; in addition to which our trade with that country was one of the main props of our navy, for from it were taken all the best and hardest of our seamen. But by a narrow and contracted policy towards Canada, their lordships would throw all that navigation into the United States. Canada was not poor; she prospered, and he trusted she would continue to prosper; but he wanted to make her feel that she prospered by her connexion with Great Britain; and at the same time he wished to make their lordships feel the importance of not throwing away the advantages which she afforded to this country. He was satisfied to alter the duration of the clause to three years, which would afford them an opportunity of judging of the objections to it; for he confessed that nothing could cause him more severe disappointment than their rejection of this measure. He objected to its being limited to one year, although he hoped that all the corn laws would undergo revision next year; but this, he contended, ought to be taken separately from the others, for Canada stood on distinct grounds. Let the general corn laws be taken upon their own merits; but this measure, he was satisfied, was right and expedient.

The Earl of *Lauderdale* could not consent to the clause without further information.

Lord *Dacre* objected to the clause on the ground of such information as he had received. He contended that in enacting this clause, they were legislating not for Canada, but for the United States; for the United States would have no difficulty in smuggling their corn into Canada along the lakes. The house was therefore enacting that the whole produce of the United States might be imported, at an inadequate duty, into this country for three years to come. He hoped, therefore, their lordships would pause before they passed a measure that might be followed by the destruction of agriculture.

In a conversation between the Earls of *Malmesbury* and *Liverpool*, with respect to the duration of the measure, the latter first said he would accept two years instead of three, and then that he would be satisfied that the measure should only continue for one year, and to the end of the then next session: upon which Lord *Malmesbury* withdrew his motion for the omission of the clause.

The Earl of *Lauderdale* then moved that the certificate which was required by the bill as to the corn being the produce of Canada should be given by the grower and owner of the grain. The clause was agreed to, as was the rest of the bill.

### *Foreign Corn.*

COMMONS, THURSDAY, JUNE 2.—Mr. *Wodehouse* moved, that an address be presented to

his Majesty, requesting that he would be pleased to direct the Consuls abroad to continue their attention to the prices of foreign corn; and that it was expedient on all accounts to ascertain the amount at which that corn might be placed free on board ship, together with the charges of freight, and the length of time necessary to carry such corn to this country, and also every particular relative to the course of exchange, and the nature and condition of any restraint upon the exportation or importation in the ports where they might be respectively resident.

Mr. *Huskisson* observed, that if these returns, when they should be obtained, did not contain all that he expected or wished upon the subject, it must be referred to the extreme difficulty of getting accurate information. There were, however, some small ports in which no consuls were resident, and from them, of course, no information could be obtained. For his own part, he was so desirous to do all that was possible on this subject, that if any hon. gent. would favour him with his wishes on it, and the mode in which he desired them to be effected, he would give to them every facility in his power. He anticipated, however, that some difficulty would be experienced in making the returns; because, owing to the existing restrictions, there was no exportation at all in many of the ports where we had consuls; and although there were large quantities of corn in the granaries, it would be almost impossible to ascertain the price at which it could be put on board ship.

Mr. *Benett* trusted that the returns would enable the house, from the price of foreign corn, to regulate that of this country.

Mr. *T. Wilson* doubted whether the information, when obtained, would be useful. He thought the restrictions, which had been so long exercised in this country, had had such an effect upon others, that a different ratio of prices existed abroad, and that they could therefore never be made available for the purpose of fixing the price of corn at home.

Mr. *Whitmore* expressed himself favourably towards the motion, and thought that it was highly desirable that all possible information should be obtained before it was attempted to legislate upon the subject. The more recent that information was, the more valuable it must of necessity be; but he could not help cautioning hon. members against supposing that these returns would enable them to ascertain the average prices of foreign corn. The amount of freight too, at a time when there had been little or no exportation, would not lead to the amount when the exportation should be increased.

The motion was agreed to.

### *Distillery Laws.*

Mr. *Western* asked the Chancellor of the Exchequer whether it was his intention to proceed with his plan for allowing rum to come into competition with the barley spirits of the country, and, if it were, upon what view he objected to the barley spirits? He put this question because a considerable alarm had been created upon the subject, not only among the distillers, but also among the barley-growers.

The Chancellor of the Exchequer repeated that it was his intention to propose, in some stage of the Distillery bill, the insertion of certain words, of which the effect would be to allow rum to be rectified, and that the difference which he proposed to make in the duty between Bri



ish spirits and rum would be 1s. 3d. per gallon. Though the distillers stated that this proposition would be ruinous to them, the rum-dealers, for whose benefit he proposed it, also said that it would be mischievous to them. He thought that he was right, as he now stood, between the two extremes. He should propose to make this alteration in the Distillery bill to-morrow.

Sir J. Sebright and Sir J. Wrottesley asked the rt. hon. gent. to foreign the measure till next session, in order that he might conciliate all parties to it.

*The Chancellor of the Exchequer:* If the hon. baronets had as much to do with adverse parties as he had, they would see that if he waited till he could see both parties satisfied with these measures, or even one of them, he should stand stock-still for ever (a laugh).

MONDAY, JUNE 13. — *The Chancellor of the Exchequer* moved the order of the day, for the house resolving itself into a committee, for the further consideration of the report on the Distillery bill.

Mr. W. Smith condemned the bill as one with which the Irish would be dissatisfied—which would be unjust to the English, and of which the Scotch would have just cause to complain. Under these circumstances, he conceived the rt. hon. gent. ought to agree to a postponement of the measure. If it was now carried, the English distillery would sustain a loss of at least one hundred thousand pounds.

On the clause for permitting distillers to convert rum into gin being proposed in the committee,

Mr. Western objected to it on the ground that it would have an injurious effect on the barley-growers of England. He contended also, that it would give an unfair and unnecessary preference to the productions of the West India colonies, and that it would be severely felt by the whole of the distillery trade. He concluded by moving as an amendment, that the words "other than rum" be inserted in this clause, which would have the effect of exempting that spirit from its operation.

*The Chancellor of the Exchequer* anticipated no such injurious consequences from the permission which this clause would give to distillers to convert rum into gin. He was quite convinced, in the first place, that it would not be disadvantageous to the barley-growers. The process of converting rum into gin was not very easy, nor could it be effected without considerable cost as well as care. He did not, therefore, apprehend on this account, as well as on that of the duty, that it would injure the English distillery trade. That it would be beneficial to the interests of such of our colonies in which rum was manufactured was quite obvious, and he thought these colonies were fairly entitled to the advantages of this alteration in the law. A system had been acted upon towards them during the war, which, if it were then necessary, had become so no longer. The treatment which we—like most other countries that had colonies—had used towards them, instead of being that of a mother country, as we were fond of calling ourselves, was that of a step-mother (hear). He thought, upon every ground of justice, that the colonies were entitled to this facility in disposing of their produce, and the more so, as it would not, he believed, inter-

fere with the interests of this country. He therefore opposed the amendment.

The committee then divided—For the amendment, 43—Against it, 81—Majority, 38.

The house then resumed, and the report was ordered to be received to-morrow.

### *Country Banks.*

COMMONS, WED. JUNE 22.—Mr. Hume presented a petition from Mr. Frederick Jones, complaining that he had demanded payment in gold for certain notes of the Castle Bank of Bristol, and was told by the clerk that it was not convenient to get at the gold then, and must call another day, at the same time tendering Bank of England notes in payment. The petitioner complained of this refusal to pay in gold, and said that upon consulting his legal adviser, he found he had no remedy but an action at law, on which he might not obtain judgment for nine months, and then be put off still further by a writ of error, or some such dilatory course. The hon. member observed, that the house must be aware of the operation of the currency upon the price of every article in the market, and that political economists attributed the fluctuation of general prices to some alteration which was effected by the working of the currency. He was aware that Mr. Ricardo was of opinion that every thing which could be expected, would be accomplished in the system of the currency, when the country banks were paying in Bank of England notes, which were convertible into gold upon demand. His own wish however, was, that even before the close of the present session of Parliament, a bill should be brought in to place country banks upon the same footing as the Bank of England—namely, that they should pay in gold on demand. This would have a twofold effect: it would tend to check the evil of an over-currency, and at the same time to prevent the tedious delay of a law process for the recovery of a debt which ought to be paid on demand.

Mr. John Smith never heard a more singular petition than that just offered by his hon. friend. Instead of their being a difference between the country banks and the Bank of England as to the payment of their notes, the law was the same for both. He admitted that no country banker did or could keep by him, gold sufficient to satisfy all the notes he might have in circulation; but country banks were unquestionably liable to pay in gold on demand, and he never knew an instance in which they were not ready to do so. Indeed, it would ruin the credit of any country banker to refuse such cash payments, and he was at a loss to understand the object of the petitioner.

Mr. Brougham was equally astonished at the petitioner's complaint, for he knew that the country banks were liable to pay in gold, as well as the Bank of England, since the passing of the last act. What necessity was there, therefore, for a new law? The petitioner complained that in default of payment he had no remedy now but an action at law. Why, what other remedy could he have if a new law were passed? Indeed, a new law would be an evil, for it would raise a doubt upon that which was, he thought, perfectly clear at present; for beyond all doubt, a country banker was bound to pay in specie on demand.

Mr. Hume was informed that the interpreta-

tion of the new act, was such as to deprive the claimant of a right to that prompt arrest which existed at common law before.

Mr. *Huskisson* said that there was no doubt of the immediate responsibility of every banker in issuing a 20s. note.

Mr. *Hume* consented to withdraw the petition till he made strict enquiries concerning the facts and the parties concerned.

MONDAY, JUNE 27.—Mr. *Hume* reverted to the petition of Mr. *Jones*: he had since ascertained that the statements in the petition were correct. He really thought that our currency ought by no means to be permitted to remain in its present state; for while it did it could not be contended that it was a gold currency, as it ought, and was intended to be. The condition it was in had already led to a considerable rise of prices. By the 37th of Geo. III. c. 52, s. 3, commonly called the cash suspension bill, it was provided, "that if any person, being liable for the payment of any such notes and draughts as might be issued in pursuance of that act, should object to pay the sum thereon becoming due, in specie, within the space of three days after demand made by the holder, it should be lawful for justices of the peace, magistrates of the session, &c. upon complaint to that effect being made to them, to summon every such person; and after examining parties and witnesses on oath, they were empowered, if the complaint should be established to their satisfaction, to award the sum due;" and such sum, with costs not exceeding 25*l.* in default of payment, might be levied by sale and distress on the goods, &c. of the party proceeded against. In a subsequent bill this valuable clause had been unfortunately omitted—he meant in Mr. *Peel*'s bill relative to the re-establishment of the currency. Such being the case, he thought the house ought not to lose a moment's time in re-enacting it. It was calculated that 99*l.* out of every 100*l.* issued in notes, was issued in country notes; and the consequence was, that in the country there was little or no gold to be got. He was sorry that he did not at that moment see the rt. hon. gent. (Mr. *Peel*) in his place, for he would only on this topic beg to refer the rt. hon. gent. to his own definition of a currency in the well known act, usually called Mr. *Peel*'s bill. It was quite clear to his (Mr. *H.*'s) mind, that the country bankers' paper which was afloat had nothing of that character which attached to "currency" in the sense in which that term was used in the act he spoke of. His reason for again moving that this petition be brought up was, that it regarded a matter of extreme importance to the country at large.

Lord *Folkestone* thought that the petition contained matters of very grave consideration on general principles. It stated a fact that he could not help considering as a grievance of very great magnitude. When Mr. *Peel*'s bill was passed, he understood that the currency was restored to a proper state; in fact that every man might get gold in exchange for his bank-notes if he pleased. Either from some failure in that act, or some misapprehension of its provisions on the part of the bankers, its effect had not been such. Here was a petitioner who held a certain quantity of notes issued by a banker at Bristol. For these notes the petitioner had demanded payment in gold, as he believed 99 out of every 100 persons would conceive themselves entitled to demand in such a case. Now, however,

it appeared they would not be so entitled. An hon. gent. had suggested, that in case of refusal on the part of the banker, the applicant would have his remedy at law. Now he had been told, that a party's action, should he ever choose to bring one, could not be tried for some eight or nine months; and should the case be decided by that time, the bankers might then obtain a writ of error, and so put off payment for a year and a half longer. The case, therefore, stood thus. In June, 1825, Mr. *Jones*, being in want of gold, applies for it to certain bankers in exchange for their own paper; they refuse to comply with his demand; he is left to his remedy at law, and such is the state of law, that he may expect his remedy and his gold about March or April, in 1827. He had been interrupted by an hon. friend, who told him, that any body who chose could get gold in exchange for his Bank of England notes, on application at the Bank of England. Why, so he could, no doubt; but was every man in want of gold for some 6*l.* or 7*l.* in notes, for example, to travel up to London, some hundreds of miles perhaps for that purpose? He thanked the hon. gent. for having introduced this petition; and expressed his hope that ministers would feel it incumbent upon them, even at this late period of the session, to bring in some measure that should give operation to that clause in the cash payments' suspension act, which had been unfortunately omitted in the later statute of Mr. *Peel*.

Mr. *H. Gurney* said that the conduct of the parties complained of was exceedingly absurd. They had done that which scarcely any other men in the same capacity would be so foolish as to do; they had refused seven sovereigns for seven of their own notes; although every country banker must know, that on demand he must pay his own notes in gold. The noble lord was mistaken in supposing that the delay he had described could take place in exchanging notes for gold; at the utmost, it could only extend to the time which would elapse between the sending to London for gold, and the arrival of a remittance in that currency. The situation of our currency at this moment he considered to be less satisfactory than he had ever before known it to be. When Mr. *Peel*, a few years since, brought in his bill, it had the effect of making money scarce, and, by consequence, increased the issues of country bankers. For his own part, he should have liked to have seen the currency put on such a footing, that gold alone should have circulated through the country. If one pound notes were permitted at all, they should be restricted to the issue of the Bank of England. While individuals, in the country, were allowed to issue one pound notes, as they were allowed to do at present, it was obvious that the issue of gold must be, in a great measure, confined to London.

Mr. *Ellis* concurred in thinking that our currency was scarcely ever in a less satisfactory state. If a war, or a bad harvest, or any other event, which might shake the credit of the country, should occur, the government would be under the necessity of allowing the commercial pressure, that must ensue, to go on without any remedy; or of renewing the suspension of cash payments. Much of the present evil was occasioned by permitting the issue of 1*l.* and 2*l.* country bank notes. The general circulation of the country consisted of 1*l.* and 2*l.* notes (no, no). He might be wrong; but in Scotland, and in most of the

northern parts of England he had visited, whenever he wanted change for a 5*l.* note, he could only get notes of 1*l.* Suppose in any case of emergency, such as he had mentioned, a great demand for gold should be made by the country banks on the Bank of England; how would the latter meet that demand? They could not take their mortgages or their Exchequer bills into the market; and unless they had gold in their coffers, he was at a loss to know how they would contend with such a difficulty.

Mr. J. Smith: When it was said that 99*l.* out of every 100*l.* in the circulation of the country, consisted of 1*l.* notes, he hardly knew how to express the surprise with which he listened to such a statement. He would venture to state—and circumstances had enabled him to form some opinion on the subject (hear)—that 5*l.* and 5 guinea notes, and not 1*l.* notes, comprised a very large proportion of our circulation. The case set out in this petition originated in a quarrel between the petitioner and the banker at Bristol, who, most illegally, and imprudently, he must say, refused to give gold to the party in exchange for the notes of the firm. It seemed to be insinuated in the speech of his noble friend that such a practice might be commonly resorted to amongst bankers; but he begged most explicitly to deny the imputation. In respect to what had been said about the currency of the north of England, he could assure the house that in Lancashire, where the greatest amount of wages was paid of any county in England, the whole was paid in specie. He himself was one of those who felt no fears at all about the condition of the currency (hear). How should it happen that the greatest commercial country in the world could be in want of specie? There could be no doubt of our having a sufficiency as long as our commerce should exist; or of our retaining it until some such calamity should befall us as the wit or powers of man should prove unavailing to oppose. With respect to the alleged evil, he saw no necessity for any remedy, as some gentlemen had proposed. In point of fact, if a man came to him, as a banker, and asked him at once for his balance, he was not, in law, bound to pay him. But his credit—that upon which alone he existed—what, in such a case would become of that? No man would trust him a second time. This was a delicate subject; and when he heard hon. gentlemen throw out such imputations as they had done, especially at a time when, from the great amount of our exports lately, the exchanges, though not absolutely against us, were, if any thing, a little on the wrong side, he could not but deprecate the introduction of so many extraneous topics. He did not believe there were three country bankers in the kingdom who would refuse gold for their notes. It was not clear that under any circumstances, it would be possible for us to divest our circulation of paper currency of a small amount; and if possible, he regarded such a measure as one of more doubtful utility than those hon. members who had preceded him.

Mr. Abercrombie thought that this was not a question that properly involved all those numerous extrinsic considerations into which hon. gentlemen had so largely entered (hear, hear). The main question was, indeed, important. If bankers refused to pay in gold, when asked for it, they might occasion a good deal of inconvenience. If the existing law were so defective as his hon. friend (Mr. Hume) had

stated, the country banker could be little apprehensive of a demand for gold, because a large proportion of those who held the notes would rather submit to the inconvenience of retaining them, than sustain actions against the bankers, which might be prolonged to the extent that had been suggested. Thus the check on the issue of notes, by their immediate convertibility, would be so far lessened. By the act of 1797, if the issuer of a note refused payment in gold, he might be summoned before a magistrate and compelled to pay in three, and afterwards in seven days. So the law remained till 1816. But the act of 1822, permitting the issue of one pound notes, omitted this salutary proviso. This omission should be immediately supplied. It was immediate convertibility, and that alone, which constituted our security under the present system of currency; and he earnestly recommended the house to resort to the proviso of 1797.

Mr. Peel, after recapitulating the statement contained in the petition, observed that he was sorry that the hon. member (Mr. Ellice) thought the circulation to be in so bad a state, and prophesied so darkly of its future condition. He could not help imagining that the circulation was in a much more satisfactory state than it would have been had parliament adopted the suggestions of the hon. member, or those of the member for Essex (Mr. Western) who wished for an adjustment of all contracts between buyers and sellers. As to the policy of entertaining a measure on this subject, it certainly appeared to him that it would be invidious to introduce one, on a matter where so many interests were concerned—particularly as the banker had admitted his error, and allowed his liability to pay in gold. If the banker did not so pay, the law would compel him; although if he were asked at what period, after demand, he was not prepared to answer the question.

Mr. Maberly said, if the complaint of the present petitioner were received, the house would be bound to receive the petition of every tradesman who chose to make application to that house, because he could not, on the moment, procure gold for a bank-note, or for any legal written instrument, promising to pay a certain sum of money on a certain day. The house had been called on to enact a summary measure on this subject. Such a measure would alter the whole of the law between debtor and creditor, and was one of the most monstrous propositions he had ever heard since he had the honour of sitting in that house (hear). If the house received this petition, they ought at all events to listen attentively whilst it was read.

Mr. Canning had not the shadow of a doubt on his mind, that, as the law at present stood, the country banker was as much liable to pay his notes in gold, as the Bank of England (hear). It was asked, under what law? He would answer, under that general law of the land which made gold a legal tender (hear). It had been said, that a protection was taken away, by the omission of a clause which existed in the Bank Restriction Act. But he begged the house to recollect the history of that whole transaction. The small circulation was first enacted under the Bank Restriction Act; and in order that it might be satisfactory, it was placed under a new sanction. And why? Because the general sanction of the law, which compelled the banker to pay in gold, was suspended. It became necessary to protect the holders of notes under the

new system by a farther enactment—that enactment being the clause which had been referred to. But the law suspending cash payments was done away with—the machinery of that part of the Bank system no longer prevailed, and the old law was in full force and effect, by which every bill or note, purporting to represent a sum of money, should be paid in gold. That law being revived, there was no species of bank circulation that required, or could have, a better sanction. The same law applied to all paper issues, whether of the Bank of England or of private bankers; and any attempt to discriminate between them would only produce confusion (hear, hear). This short statement of the case, had been greatly perplexed by his hon. friend the member for Coventry (Mr. Ellice), who had thought this a convenient opportunity for *harking back* on the opinions he had broached a few years ago, on the subject of the currency. He concluded by expressing his satisfaction with the system now in operation (hear, hear).

Mr. Baring observed, that the objection was, that though the system was continued as far as regarded the small notes of country bankers, the summary remedy had been destroyed. Thus far, therefore, the country had not returned to its ancient state. He was of opinion, that this summary remedy ought to be revived more for the sake of the principle, than for any practical advantage to be gained by it, for practically he was ready to allow that it was not necessary. It ought to be recollected, that the country bankers were persons to whom a privilege was given, and the public ought to enjoy a corresponding protection. The restoration of cash payments would be imperfect, and the country liable to great convulsions, if it were not more saturated with gold than at the present moment. The quantity was now too small, and it could not bear the occasional contraction and expansion to which it might be exposed. For instance, the country might be called upon to expend three, four, or five millions upon grain, and this sacrifice could not be made with ease when the whole of the sum must come out of the coffers of the Bank of England. Should Government next year bring forward a proposition for putting an end to the issue of small notes in the country, he should meet it with great approbation. Formerly great injustice had been done between debtor and creditor by tampering with the currency, and though Ministers had done rightly in risking the great experiment of a change, much distress and ruin to individuals and families had attended the change. Neither side of the house had reason to be proud of the part it took in that proceeding.

Mr. Huskisson: When the Bank resumed its payments in specie, it was found highly desirable, for public convenience, to continue in some degree the issue of small notes. The question was not now, whether those issues should be allowed; but whether a special remedy should be given to the holders. The power to issue notes, under proper authority, had long, and still existed in Scotland, and never was assisted there by any special protection to the holders. When the restriction on the payment of cash by the Bank of England took place, it was necessary that there should be a power of levying, by summary process, the amount of the notes on the goods of the issuer, if he refused to pay in gold or notes of the Bank of England. But the moment that restriction had been re-

moved, the remedy had ceased to be necessary. At present, if a summary process were applicable to 11. notes, why not to 51. notes (hear)? In the county of Lancaster there were no 11. notes; but there was an issue of bills, and other securities of a like description, far under 51., to a very large amount, and the only remedy of the holder was at the ordinary law. That law was perfectly clear. It was this—that there was no legal mode of satisfying the holder of a note, except through the medium of the legal coin of the realm. This, he thought, was as good a state of security as any country could afford, or boast of. As to the amount of notes, that was another question—the amount of the note had nothing to do with the payment in specie. He remembered, that when the Cash Payments bill was brought in, an attempt was made to introduce a clause, that the payment of country notes in Bank of England notes should be deemed satisfactory. He, however, resisted that clause; and it was then distinctly understood—though now it seemed to have been forgotten—that there was no legal tender for debts contracted in any shape, except in silver coin of the realm, to the amount of 20s., and above that sum in the gold coin of the country. The petition was then laid on the table.

### *Usury Laws.*

COMMONS, TUESDAY, FEB. 8.—Mr. Sergeant Onslow rose, to bring in a bill to repeal the usury laws. He did not feel himself called upon to say any thing in defence of it, since the house had shown their approbation of it in a division during the last session, when there appeared 120 for it, and only 23 against it. Though this bill was ultimately defeated, he had heard no solid objection to it. He had, indeed, heard several predictions of the evil consequences which might arise from it; but his opponents were bound to prove that the probable advantage would not be greater than the apprehended mischief. The state of the money-market was at present such as to obviate many of the inconveniences which were formerly anticipated from his bill, and therefore he trusted that those gentlemen who had formerly opposed it would now withdraw their opposition.

Mr. Davenport declared his intention of opposing the motion, as he considered the learned sergeant's bill would involve the landed interest in ruin.

Mr. J. Smith was sorry to observe a disposition to oppose this bill, supported as it was by arguments at once clear, distinct, and unanswerable (hear, hear). The bill was lost last year, through the courtesy of his learned friend. It was deferred not once or twice, but a dozen times at least, to meet the convenience of the gentlemen who opposed it; and the result of this conciliatory conduct was, that they assembled one night, when no discussion was expected, and threw it out by dint of numbers.

Mr. Curwen would hold by the old laws, and would even propose to enact them, if they did not exist, in consequence of the numerous speculations now abroad, which were such as to stagger credibility. If he were rightly informed, these speculations would require a capital of 160,000,000l. to carry them into effect.

The house then divided, when there appeared—For the motion, 52—Against it, 45—Majority, 7.

THURSDAY, FEB. 17.—Mr. Sergeant *Onslow* moved the order of the day for the Usury Laws' Repeal bill.

Mr. *Calcraft* thought the present state of the money-market, where every man who wanted capital could obtain it on convenient terms, was alone a sufficient reason against altering the law. He admitted the general principle of leaving men to dispose of their property as they thought fit; but this rule was not without an exception. The building act compelled men to build their houses with party-walls of a regulated thickness. By the law with respect to gaming, a man was prevented from doing what he pleased with his money; he might not lose it at play, nor open a house with it, in which others might lose their's. If men might be left to use their own property as they pleased, why was the Lord Chancellor now engaged in introducing a bill to repress that species of speculation of which so much had lately been on foot? In referring to history, it would be found that in proportion as the regulations of the rate of interest had been enforced by statute, in that degree had the country flourished. He would admit that in difficult times, men might be driven to those straits in which these laws would be inconvenient. Those, however, were emergencies against which the law could not provide. As to the insurance and annuity process, which it was said this bill would remove, he believed that the transactions of that kind were very few. And then was it nothing that under these laws the country had flourished and attained its present greatness?—He concluded by observing that he thought the mischievous tendency of the bill, and the utility of the usury laws, was established by the evidence of Messrs. Dunn, Rothschild, and Preston.

Mr. *Hume* was of opinion that the repeal of these laws would be followed by similar advantages which had ensued on the partial removal of the restrictions on the Irish trade. It was argued that the repeal of those restrictions would have been ruinous to the country, but when only a part of them had been abrogated, the beneficial result was so manifest, that almost all the Irish merchants petitioned for their entire removal. With respect to the speculations now afloat in the city, he was ready to admit that all those should be discountenanced, in which men of rank and station in the country having embarked, induced others to follow their example, and then shifted their responsibility on the public (hear, hear). To that extent he discountenanced these projects; but if the interests of commerce required projects of public improvement; to say that the parties should be compelled to pay up at once three-fourths of the money, which, perhaps, might not be required for ten years, was absurd (general cheers). With respect to the question before the house, it had been said that no complaints were made against the existing laws. Why what did that prove? Formerly it was urged, that the alteration was inexpedient when the rate of interest was high. Why now then was the very time when the rate of interest was low; and if the accumulating process should go on in this country, as there was every prospect of its doing, he saw no reason to think that during his life time the rate of interest would ever reach five per cent. He had stated on a former occasion that if, when the general rate were five per cent, it should be possible for the landed interest, by force of law, to borrow at three, the difference would be a *bonus* to them:

and he would add that the facility of borrowing money, with a certainty of not being called on, made them involve themselves much more deeply, than if they were subject to the fluctuations of the market. If he were to propose that his hon. friend (Mr. Calcraft) should take no more than fifteen shillings an acre for his land, what would his hon. friend say, on his present principles? He, for his part, was quite certain that the only reason why his hon. friend did not charge 10l. an acre, was the apprehension of not being paid for it (a laugh). It was just the same in the case of money, and the same rule should apply to all.

Mr. *Cripps* opposed the bill, on the ground that the country had flourished under the existing law.

Mr. *J. Smith* said, the same argument might be applied to every measure of improvement. If a bill were brought in to make a new turnpike-road, it might be argued that the country had prospered without it, and therefore it was unnecessary. Such an argument was not worthy of notice. The question was, was the repeal useful or hurtful? All other arguments were idle. In his opinion the restriction was mischievous. Money, like other commodities, would obtain its value; and if a law settled the rate at which the use of it was to be paid for, below its value, its owners would find means for evading the law. Take, for example, the case of a tradesman who was pressed for money, and supplied his immediate wants by drawing a bill, and had no means of taking up the bill when it became due. What did he do? Why he went to the banker or holder of the bill, requested him to keep it another week, and offered to pay for the accommodation. If this man could have borrowed the money of his neighbour, at six or seven per cent., he might have got it, and been saved from this sort of ruin. This question had been agitated for several years, out of the house, and there, at least, it was finally settled.

The *Solicitor General* began by saying that he met the hon. gent. (Mr. J. Smith) entirely on the ground of utility, and would endeavour to shew, that on this ground the law ought not to be repealed. Borrowers might be divided into three classes—mercantile, landed, and persons who, not belonging to either of these classes, might be considered as general borrowers. If the law only applied to mercantile borrowers, the repeal would not be injurious. They did not borrow of necessity, but they borrowed to trade; and if they could make 10 or 12 per cent. on the money borrowed, he saw no reason why the lender might not ask them to pay him 7 or 8 per cent. But if they were allowed to demand this, was there any landed gent. who possessed so foggy an understanding as not to see that, if the monied man could lend to the trader, at a higher rate than five per cent. he would not lend to him at that sum? It was one advantage to the lender, that he could recal his capital at pleasure, or at a short notice. Now when a man lent capital to a trader, he was generally enabled to command the use of his capital when he pleased. But if he lent his money on land, there was all the trouble of mortgage; he could not recal it for two or three years, and therefore, when he lent it to the landed gentleman, he would make him pay a higher rate of interest than the trader. The landed gentleman would find no money-lender so pleased with his physiognomy, as to lend money to him at a lower rate than he could get elsewhere; and if this repeal enabled him to get more from the

trader, it would enhance the difficulty of borrowing to the land-owner. There were eight out of ten estates in this country involved in debt; but landed gentlemen did not borrow to make profits, they did not borrow to fructify, and they must be injured by whatever increased, as this measure would increase, the rate of interest. The third class, or general borrowers, was the most numerous, and, perhaps, eight out of ten gentlemen were of this class. They did not borrow to make profit, and they had no security to offer. They would suffer even still more than the landed gentlemen from the repeal. These might be called involuntary borrowers; they had no choice; they were a large class of persons, and they were all, by this proposed repeal, to be given up, *ad libitum*, to the claims of the extortioner, and to a system of exaction. He did not wish to trouble the house, but there was one effect of the repeal as to the Bankrupt Laws, which he would shortly advert to. As the law stood, if a man lent money at a higher rate than five per cent. to a trader, he was held to be a partner of that trader; and in case of the trader failing, the law would come on his whole private property to pay the debts of the firm. But if the Usury Laws were repealed, a monied man would lend money to a trader at a higher rate; he would make eight, ten, or twelve, per cent., and in case the trader failed, his property would remain untouched. He would take the case of a brewer, in want of money. The person he applied to might say: "You are making 20 per cent.; if I lend you my money, I must have 10 or 12." Here was a soft, oily, comfortable, and not Jewish way of making a very handsome profit. The brewer makes 20, and pays the lender 10 or 12; and the lender obtains from the brewer a security for his advances. Suppose the brewer fails, there is nothing to pay the creditors, and he, who has really been engrossing the profits of the trade, preserves his property entire. A monied man might even set up an agent to contract debts, and answer for them under the Bankrupt Laws, while he, who had been reaping the profits of the trade, who had absolutely put into his pocket the debts contracted by his agent, would not be answerable for a farthing. If the laws were repealed, they would open a door to fraud; and this principle, under the present Bankrupt Laws, he thought worthy of attention. The hon. member for Aberdeen had said, that landed gentlemen might ask what they pleased for the use of their land. But he would ask the hon. member if the Corn Law, which allowed corn to be imported when the price was 80s. did not fix a maximum on rent? Beyond that, the landed gentleman could not demand a rent. Because he thought the repeal proposed unseasonable in time, and pernicious in principle, he should move that the bill be read a second time that day six months.

On the amendment being put,

Mr. Sergeant *Oswalson* observed in answer to the last speaker, that all who had money to lend, looked both at the rate of interest and the security for paying it; and it was the case now, as it always had been and must be, that men with a less certain security, such as mercantile men, could not borrow on as favourable terms as those who, like landed gentlemen, had better security. The learned member seemed to think that a lender could at all times have what he asked, and that the rate of interest was entirely fixed by the wish of the lenders. He

had taken no notice of the competition of lenders. If this were as the learned member stated, how was it, that at present, when the legal rate of interest was five per cent., men lent their money much below that rate? It was clear that some other principle besides the will of the lender, settled the rate at which the rent of money was to be paid. This principle was partly the competition among the lenders. Money was like land or houses, which, when men borrowed, they paid for the use of; and as the rent both of houses and land was unrestricted, he did not see why the rent of money—for there was nothing magical in the term interest—should not be as unrestricted as the rent of either houses or land.

Mr. *Robertson* resisted the repeal, as opposed to the suggestions of experience. He observed that according to the practice of most civilized nations, the rate of interest on loans was fixed. A departure from this salutary principle had caused the ruin of some of the free states of the continent.

Mr. Alderman *Hoygate* opposed the bill. It would be especially ruinous to the small traders. The present law was not constantly evaded—if it were, this bill would not have been pressed upon the house every year for the last ten or a dozen years.

Mr. *C. Wynn* had so often stated his sentiments to be favourable to this bill, that he should not have risen that night had it not been to account for the absence of his Majesty's ministers on this occasion. He believed that all of them, except the learned gent. who had moved the amendment, considered the bill as one which would greatly advance the public interest. His right hon. friends, the Chancellor of the Exchequer and the President of the Board of Trade, had, on more than one occasion, publicly defended the policy of it; and he was confident that all his colleagues, with the exception, perhaps, of the right hon. Sec. for Foreign Affairs, who, to the best of his knowledge, had never taken the question into his consideration, were strongly in favour of it. They had left the house, because they anticipated that the division would not take place till a late hour, and that their presence would not be wanted to render the question successful. He had stayed at the request of his rt. hon. friend the President of the Board of Trade, to declare the opinion of ministers on this bill, in case such a declaration of opinion should be rendered necessary by any thing that occurred in the course of the debate.

Mr. *Bright* considered the absence of the whole body of ministers from the house to be inconsistent with their public duty. He was afraid to remove the Usury laws, because he thought their repeal would diminish the comforts of the middle and lower classes of the community.

The house then divided, when there appeared for the bill, 40—Against it, 45—Majority against it, 5.

### *Joint Stock Companies.*

LORDS, THURSDAY, FEB. 3. — The Lord Chancellor made some remarks with respect to a system now going on to a mischievous extent—he meant joint stock companies—most of which were not yet, and never might be formed, although, before their formation took place, the shares of the persons adventuring therein were made the subjects of sale, to the enormous

profit and advantage of those who set such companies afloat. It was his intention to bring in a bill to check proceedings of this sort. He thought it right to mention the subject on the first day of the session, because he intended that the operation of the bill should affect all sales of interest on shares in those companies which might be proposed to be established, but were not yet formed, from and after the first day of the present session, so that there could be no ground for complaint with respect to the want of notice, supposing their lordships should think proper to approve of the bill. With respect to the past, he would either leave it to be dealt with according to the common law as it at present stood, or he would introduce into the bill a clause declaratory of the common law on the subject.

MONDAY, FEB. 7.—The Lord Chancellor said, that there seemed some uncertainty with respect to the actual state of the law on the subject of joint stock companies. But whatever might be the existing law, it could never be intended that the public should stand in this situation—that before the authority of the Crown or of Parliament should be given to constitute a joint stock company, persons should be permitted to sell at an enormous profit the shares of that company, which was nothing more nor less than laying a bait for their own benefit, by which innocent individuals were great sufferers. The object of his measure should therefore be to prevent the transferring such shares until the company should have received the sanction of a charter or an act of parliament. The transfer of such shares was declared illegal by the 6th Geo. I.; but the penalties of that act, which were no less than a *præsumptio*, and loss of goods and chattels, were so enormous that it was probable nobody would be disposed to enforce them.

COMMONS, MONDAY, FEB. 28.—On a reading of the Oil Gas Company bill,

Mr. *Grenfell* objected to the practice of granting to joint stock companies the privilege of suing and being sued by their secretaries. If, as it was alleged, many companies now in progress had no real foundation, and were only formed with a view of deluding the public, their power of delusion would be considerably increased by their being enabled to hold out to the world that they possessed any thing like parliamentary sanction.

Mr. *Huskisson* admitted that some of the new companies possessed the character which the hon. member ascribed to them; but how was it possible for the house to know whether certain companies were or were not formed on sound plans, and whether their capital was subscribed? He believed, indeed, that if it should appear that the capital of the companies was not subscribed—that it was only a pretended capital, they would experience great difficulty in getting their bills through all their stages in another place.

Mr. *Hobhouse* said that when the proper time came, he should be able to prove that there was no pretence whatever for some of the projects of the present companies. There was one company in particular, the Pasco-Peruvian Mine Company, which he pledged himself to prove had no foundation whatever, and no object in view except to work mines on the Stock Exchange.

Mr. *Baring* was of opinion that the house ought to come to some determination of its own with respect to the companies in question, and

not allow the bills relating to them to pass in hope that they would undergo revision in another place. He did not see that any great harm would result from giving companies the power of suing and of being sued by their secretary. If it were meant that the house should reject every bill which proposed to give that power to a company whose shares were not all paid up, he would say that by so doing they might obstruct many useful plans. He hoped that his rt. hon. friend (Mr. *Huskisson*) would make up his mind as to what course it would be proper for the house to pursue on the subject.

Mr. *Huskisson* said, that he had stated last year that to all bills having for their object to exempt particular companies from the observance of conditions to which all others were liable, he would object; but he must confess that he did not see much objection to allowing companies, for their own convenience, and for that of the persons with whom they transacted business, to sue and be sued by their secretary. It was not for him to probe the merits of all the existing speculations, and to declare which were likely to prove beneficial to the country or otherwise. It was for the public to ascertain, before they engaged in such speculations, what was their nature: people should be more cautious.

Mr. *Hume* said that the house should be cautious in meddling with the subject. He would ask whether, when the bill for building the Strand Bridge was introduced, any member would have been found to call that project a delusion; and yet it appeared hardly possible that any of the speculations of the present day could be more ruinous in their consequences than that had been. The house ought not, in his opinion, to throw any impediments in the way of speculation, so long as the persons promoting them sought no peculiar privileges. Here the conversation terminated.

FRIDAY, MARCH 18.—A petition having been presented by Mr. *T. Wilson* from the cowkeepers of the metropolis, against a joint stock company, called the Alderney Milk Company,

Mr. *Grenfell* expressed his regret that the Lord Chancellor's bill, to regulate these joint stock companies, was not yet forthcoming.

Mr. *Huskisson* said, that whatever might be their opinion as to the nature of many of the recent speculations, the law which referred to partnerships was well known, and, with the exception of bankers, he did not see that there was any thing in the law to limit the number of persons who might choose to associate for the purpose of carrying on any particular trade. He would admit that the rage and folly of the day led to speculations for carrying on ordinary trades in the way of extensive partnerships. They had milk companies, and brick companies, and fish companies, and several others of that kind which he could not enumerate; but when any of them came before the house with a bill, and asked for no new or exclusive privilege or power, he did not see how the house could turn them away. By refusing the power which they asked of suing and being sued in the name of one of their officers, he did not see that they could be prevented from acting as a partnership; but the getting such a power would not of itself be the means of enabling them to continue long in those extensive associations. He was sure that the good sense and industry of those who carried on trades for the more extensive exercise of which some of the companies had been

formed, would in the end prevail, and that the trades would return to their natural channel. Many of those owners of shares, who might be considered as sleeping partners in trades of which they knew nothing but the name, but who expected to reap large profits without any care, activity, or exertion on their parts, would, he feared, find in the end their expectations disappointed, and that they could not compete with effect against individuals who devoted their whole time and attention to the promotion of their respective trades. The high-raised hopes of many who embarked in such speculations would, in the end, vanish "into thin air," and leave those who entertained them nothing but regret and disappointment (hear, hear). At the same time he did not see how the parliament could at present interfere. If, in any of the measures which came before them, any thing illegal could be shown—if any particular evil could be pointed out—he would be willing to afford every remedy in his power; but unless that was done, it would be better to let those things take their course, and they would be found to come back in a short time to their natural level. Now, in this milk company, for instance, he saw nothing illegal in its formation, nor any thing in which the house could with propriety interfere; at the same time he felt satisfied that it could never succeed against the vigilance and activity of individual industry (hear, hear).

The petition was then ordered to be printed.

**LORDS, FRIDAY, MARCH 25.**—The Earl of *Lauderdale*, on presenting a petition against the Equitable Loan bill said, that their lordships would do well to consider whether it was not time to stand forward and show their sense of the speculations which were afloat. Nothing, he was sure, could be more injurious to the country than such a spirit of rash and inconsiderate enterprise. There were at present placed at the command of the directors and other managers of joint stock companies, more than two millions, one-fourth of which, he believed, was more than the minister had raised by loan, at once, during any period of the late war.

The Earl of *Liverpool* wished to take this opportunity of saying a few words on the subject alluded to. In a country like this, where extensive commercial interests were constantly at work, a great degree of speculation was unavoidable, and, kept within certain limits, was attended with much advantage to the country. In a moment like the present, in a profound peace, and when the interest of money was low, it was particularly to be expected. But he wished that the public should be set right as to the situation in which they stood. He never knew a moment when there was a greater prospect of lasting peace than the present, but still no man could answer for events. No man could say how long this peace might last. Now he would ask any man to reflect what would be the situation of the public, if (not to speak of actual war) any thing short of war—any embarrassing event were to occur? Their lordships would recollect that when commercial embarrassments occurred during the late war, bankers and merchants came forward and applied to Parliament for aid, which they obtained by issues of Exchequer bills. He wished it, however, to be clearly understood that those persons who now engaged in joint stock com-

panies, or other enterprises, would enter on those speculations at their peril. He did not wish to see any legislative measure introduced to prevent persons from embarking in any speculation they might think proper: every one had a right to employ his capital as he chose. But he thought it his duty to declare, that he never would advise the introduction of any bill for their relief; on the contrary, if such a measure were proposed, he would oppose it, and he hoped that Parliament would resist any measure of the kind. He thought that this could not be too well understood at the present moment, nor made too publicly known.

The *Lord Chancellor* said that he ought to apologize, if he might so express himself, for not having brought in the bill of which he had formerly given notice, relative to joint stock companies; but parties had come before him while he was exercising his judicial duties, and he did not think it right to be declaring the law in that house while he had to give judgment in another place. He had been employed since September last in hearing persons engaged in speculation, who had been quarrelling among themselves. From what took place in the Court of Chancery, it would appear that these parties had enough to fear from the state of the law as it now stood, to say nothing of any new act. They could not be aware of the extent of the danger in which they were placed.

### *Bubble Act Repeal.*

**COMMONS, TUESDAY, MARCH 29.**—Mr. *Peter Moore* observed, that some positive decision was necessary on that great subject of speculation and improvement which was now so actively in operation. At least 160 millions of capital were afloat, and for his own part he trusted that he should see that amount tripled and quadrupled. An attempt was made to cast imputations on those who embarked in these schemes, and the schemes themselves were designated as bubbles. He had the honour of being connected with some of these companies, and he was prepared to meet the most scrutinizing inquiries as to their objects and mode of proceeding. He should not at present enter into the great question; but on the second reading of the bill would be prepared to meet the fullest discussion. The hon. member concluded by moving for leave to bring in a bill to repeal the act of the 6th Geo. I.

The *Attorney-General* said, that the 6th Geo. I. comprised a great many different subjects with which the motion of the hon. member had no connexion whatever. Surely, then, it was not to be dealt with in this inconsiderate manner. He must oppose the motion.

Mr. *Grenfell* was anxious that something should be done to render the real state of the law intelligible. In the course of the last week, a joint-stock company had been formed, with a prince of the blood at its head. There was another, at the head of which were the Archbishop of Canterbury and the whole bench of bishops. Yet, if the common apprehension of the law were correct, those persons had incurred the penalties of a *præsumptor*.

Mr. *Ellice* expressed his readiness to vote for the introduction of the bill, in order that the subject might be fairly discussed and disposed of; although he by no means knew that he should agree to its second reading. In that and the other house of parliament, liberal views



had been taken of the subject by the Noble Lord at the head of the Treasury, and by the rt. hon. gent. (Mr. Huskisson), who stated that which appeared to him to be consonant to common sense—namely, that the public should be allowed to institute what companies they pleased, but that all attempts at fraud should be punished. At the same time an alarm was sounded out of chancery, cautioning persons against embarking in the new speculations. The same thing happened not long ago with respect to South America. The independence of that country was much countenanced in parliament at the time that all recognition of it was utterly refused in the court of chancery. Some alteration in the law had, in consequence, become indispensably necessary.

Mr. J. P. Grant said, that the objection to the motion was, that it could not attain the purpose designed by the hon. member. He was not prepared to say what would be the state of the common law with regard to traders if the 6th Geo. I. were repealed. He must admit, however, that the law as it now stood, with the decision of two very high authorities against the operation of that act, left matters in too much uncertainty.

Mr. P. Moore, to conciliate opposition, offered to alter his motion for a repeal, to a motion for altering and amending the act.—(Cries of "withdraw").

After some animadversion by Mr. Huskisson, on the inconsiderate manner in which this motion had been introduced, the motion was withdrawn.

THURSDAY, JUNE 2.—The *Attorney-General* moved for leave to bring in a bill to repeal so much of an act of the 6th of Geo. I. cap. 18, (the Bubble Act), as related to joint-stock companies. This act had of late excited considerable discussion in the courts of law and equity, and it appeared to be agreed on all hands that its meaning and effect were altogether unintelligible. It was, in fact, impossible to ascertain what had been the intention of the legislature in passing that act. When it was further recollected, that the penalty imposed by the act was no less than that of a *premeditated*, he thought nothing more was wanted to show the necessity of repealing it. But there were other grounds which manifested that necessity still more strongly. From 1720, the year in which it was passed, down to the present time, joint-stock companies had been formed for the most useful and laudable purposes; such as the companies for the insurance of lives and property, and many others; all of which, under the interpretation which was sometimes put upon this act, were said to be illegal. For the protection, then, of these individuals, it was highly expedient to repeal the existing law. He might be asked, whether it was his intention to propose any provision instead of it; and to this he must reply, that he had at first intended to do so, but that after having very attentively considered the subject, he had been convinced that such a course would be at once difficult, unwise, and impolitic. The reasons which had induced him to believe, that it would be inexpedient to legislate on this subject were, that up to the period of passing the Bubble Act, although the commerce of this country had been extended in a very important degree, no legal enactments had been considered as necessary. After the events which gave rise to this act, previous to

1720, with the exception of a criminal prosecution, the nature of which was not very clearly understood, and which took place two years afterwards, no legal proceedings had been had under it until within a few years ago.—He would add, that he meant to insert in his bill a provision, that it was not to interfere with any proceeding now depending in any of the courts of law or equity, but that they were to be decided according to the law as it had stood when those proceedings were commenced. There was another provision which he meant to add, with a view of facilitating the granting of charters by the crown, to companies for trading and other purposes. Under the charters as they were commonly granted, the persons incorporated were not individually liable for any of the debts of the company, but only so far as the corporate property extended. This circumstance caused considerable reluctance on the part of the crown, and those whose duty it was to advise the crown, to grant charters. Persons wishing to form a company were therefore obliged to apply, in the first place, to parliament, for an act enabling the crown to grant a charter, and afterwards for the charter, thus doubling the expense. To remedy this, he should propose a clause enabling the crown, whenever applications should be made for a charter, to insert in it a provision, rendering any individual member of a corporation liable for the debts of that corporation, according to the judgment of the crown in each particular case. He concluded by moving for leave to bring in the bill.

Col. Davies regretted that the law, as laid down by Lord Ellenborough, in deciding a case on this act, had not been adhered to, because in his opinion that decision sufficiently explained the act of parliament, and would have rendered the proposed bill unnecessary.

Mr. Huskisson said, that the proposition of his learned friend was one which he warmly concurred in, because he was satisfied that the interests of commerce required the encouragement and protection of joint-stock companies. When the gallant member said, that if Lord Ellenborough's decision had not been called in question, the proposed bill would not have been necessary, he showed that by the possibility of that decision being disturbed, it was highly expedient to have the law made certain. That decision was, that all companies not prejudicial to the public interests were legal. The question if prejudicial or not, was of course to be left to a jury. But where persons had embarked large properties in a speculation, ought they not to be guaranteed by some secure provision of the law, instead of leaving their interests to the eloquence of a counsel, or to the discretion of a jury? He had no reason to doubt Lord Ellenborough's interpretation of the law; but the law itself was still left in a state of uncertainty, and the object of his learned friend was to remove that uncertainty. The mere provision that parties should sue and be sued was not enough, as the inconveniences which were every day experienced abundantly proved. If this bill were passed, parties would, in future, be enabled to enter into their speculations without any other restriction than that which the crown would exercise in pronouncing upon the utility and propriety of their designs.

Mr. Denman could not agree with his gallant friend, as to Lord Ellenborough's decision, because it left the law in this state;—the persons composing a company were liable to be indicted

ed, and then there were two points to be decided—the first by the jury, whether the object of the company were beneficial or injurious to the public; and the second, what interpretation the judge might think fit to put upon the words of the act. Since the passing of the act, only two cases had arisen upon it, in which the jury had found that the objects of the companies were beneficial; but it was nevertheless a subject which in its nature admitted of so much variety of opinion that it was unfit to be left to the decision of a jury.—He must be permitted to say, that the act itself was a specimen of the inexpediency of occasional legislation. It was not passed until after the evils which it pretended to remedy were over, and at the end of a century it was the cause of serious inconveniences, to obviate which another application to the legislature had become necessary.

Leave was given to bring in the bill

**LORDS, TUESDAY, JUNE 28.**—On the motion for the second reading of the bill for the repeal of the Bubble Act,

The Earl of *Leinster* opposed the motion. The act of Geo. I. had been passed to correct a great public grievance, which would be encouraged by the alteration proposed to be made in the law. The companies now forming, and which the repeal of the bubble act would sanction, were all monopolies, and their effect would be to drive the fair trader out of the market. When the existence of the East India Company and other established monopolies was objected to, why create new ones?

The Earl of *Liverpool* observed, that the allusion made by the noble lord to the East India Company was not in point. The objection with regard to that Company was, that it was said to be a monopoly against the public; but he was surprised that the noble lord did not see that those companies, if they were to be monopolies at all, must be so in favour of the public. As for private traders being driven out of the market, that he did not think probable; for it was well known that large companies always conducted their concerns in a much less prudent manner, and with far less attention to their interests, than individuals. There could therefore be no harm in repealing this obsolete act of parliament, while its existence only tended to create confusion, in consequence of individuals not knowing what they might, according to law, do or not do.

The Lord Chancellor stated, that the principle of the present bill was to repeal the act of 6 Geo. I., and to leave the parties to whom it was intended to apply to the operation of the common law. It did not destroy the power of the Crown to grant any charters, but it enlarged that power to the granting of qualified charters. As it repealed the statute of Geo. I., and as that statute was supposed only to stand in the way of associations such as the public had lately seen attempted, he thought it better that a clause should be introduced into the bill declaring that the common law remained unaltered and untouched. The common law, which would thus be enforced, was, in his opinion, equal to every thing contemplated in the statute.

The Earl of *Liverpool* objected to the proposed clause, as it might render it necessary in all future acts to state, not only the laws repealed, but the laws which remained in force after the repeal of a special statute.

The bill was then ordered to be committed tomorrow.

### *Equitable Loan Company.*

**FRIDAY, MAY 27.**—Lord *Dacre*, on moving the second reading of the bill, said, that the object of the bill was merely to enable a company to sue and be sued by one of their clerks; a portion of their capital being invested in a manner calculated to afford considerable relief to the poor. The Equitable Loan Company proposed to act as pawnbrokers in a way most favourable to the interests of the poor. The establishment resembled, as much as possible, those institutions in Italy and France called *Monte de Piété*; and he could not think that the opposition to so charitable a purpose was founded on any other ground than that of interest.

The Lord Chancellor said, that as guardians of the public safety, it was their lordships' duty to guard against the mischiefs which were likely to ensue from the conduct of these companies. During the last two or three years those mischiefs had been suffered to spread to a most dangerous extent. It was true, that many persons were connected with them, who were entitled on every account to the greatest respect; but when, for instance, it was stated that out of 40,000 shares, of which this company consisted, all had been sold at a premium, excepting 6,000, the public required some other security than the respectability, however great it might be, of certain individuals. He was no foe to joint stock companies, if they were for proper purposes, and under due provisions. There were many great national objects which could be accomplished by no other means, and which were fairly entitled to the privileges of a charter, or of an act of parliament. But without such protection, nothing could be more foolish and vain than to suppose that bills could be passed, only because they contained the clause that the companies to which they related might sue and be sued. Any lawyer would satisfy their lordships in ten minutes, that a more efficacious and futile clause could not be inserted in a bill, and that nothing could be less of a security to the public. He had been led to consider this subject deeply, from the circumstance of his having been called upon in another place to pronounce judgment upon a question which involved it. There was another circumstance, and one which weighed with him very considerably; it was, that as the law was not now strong enough to compel the parties engaged in such undertakings to do justice among themselves, it was impossible that it could do justice between them and the public. The transactions of the Scotch commercial banks were all of this nature, and no man who thought of the inconveniences which might result from it would deny that the law in this respect ought to be altered. While there was no dispute, the inconveniences could not arise; but when appeals should come from the courts of session, it would be found that all which had been done in the courts below must go for nothing, whatever might be the justice of the case. A more important case than this, his lordship thought, whether as regarded the particular company now under discussion, or the general interests of the public, had not been before the house for ages.

The second reading was deferred till counsel should have been heard on the bill.

**TUESDAY, JUNE 14.**—Lord *Dacre* moved the second reading of the Equitable Loan Bill.

The *Earl of Lauderdale* said that he would consent to the bill being sent to a committee, in order to have the company's trust deed made a part of the bill, and on the third reading it would be for their lordships to consider how far the bill so constructed ought to receive their sanction, and how far it might be consistent with law. His objection to this bill did not arise from any wanton prejudice, but from a strong feeling of the injurious effect of joint stock companies on the commerce of the country. He could not concur in the assertion that those companies encouraged competition. So far from that, he thought the direct effect of them was to destroy all competition, and to bring the most ruinous consequences upon trade. In the nature of such companies, they could not carry on trade so beneficially to the country as private individuals.

The *Lord Chancellor* observed, that if this company were not illegal, it might be for their lordships to consider, whether it would be useful to the community to grant them the privileges which they sought; but if they were not legal, it might be asked on what ground they claimed any privileges at all? It was admitted at their lordships' bar, that until the signing of the trust-deed, the company was illegal: he had no objection to allow the trust-deed to form a part of the bill, either by schedule or otherwise; and after it had passed the committee, it would be competent for their lordships to discuss whether the bill, as it would then stand, was or was not a fit measure for legislative sanction; and he would take care that the 12 judges should be summoned to give their opinion as to its legality.

*Lord Dacre* thought it had been very fairly put by counsel at their lordships' bar, that if any legal objections existed to this bill, they ought to be removed, on the ground of its public utility. If that utility could be proved—and he had no doubt whatever that the most satisfactory evidence could be given on that subject—he thought their lordships were bound, in justice to the country, to give every facility to the measure. Suppose this bill were to be objected to on the ground of its illegality, what, he asked, would be the situation of the thirty-four companies which had already had bills passed in their favour, granting them the power of suing and being sued?

The *Lord Chancellor* said, that from what was passing in the courts of justice, it would be but just to all the parties concerned in such companies as this, that the deeds should form part of all future bills. It was necessary that the contents of such deeds should be known to all parties, or the legislature must decide upon altering the practice of the courts of law.

The bill was ordered to be committed to-morrow.

FRIDAY, JUNE 24.—On the motion for the third reading of the *Equitable Loan bill*,

The *Lord Chancellor*, in rising to oppose the motion, said this company proposed to lend on pledges, sums under 10l. at a lower interest than the pawnbrokers. Now, as the number of persons composing the company might amount to about 7,000, was it fair that a body so constituted should compete with individuals? The result would be a monopoly, the establishment of which could not be for the interest of the public. This company might lend at a low interest till all competitors were driven out of the market, and then do as they pleased. The power

of suing the clerk was no advantage to the public. If a judgment were got against the clerk in a civil action, and he could not pay, was the prosecutor to proceed against all the 7,000 partners? If a criminal proceeding might be successful against the clerk, those who had the option of bringing it, were placed in the difficulty of either punishing the innocent or of abstaining from seeking any redress. For the encouragement of companies of this kind, it would perhaps be thought necessary to repeal the act of Geo. I. called the Bubble Act; but if that were done, it would but little alter the case, for he could tell their Lordships that there was hardly any thing in that act which was not punishable by the common law. The noble and learned lord restated the opinions he had at different times in that house, as well as in the Court of Chancery, delivered on joint stock companies, and concluded by moving that the bill be read a third time that day three months.

*Lord Dacre* said, that the mere enactment to lend small sums of money under 10l., at an interest of 90 per cent. less than that charged by the pawnbrokers, was of itself a proof that the bill would be a benefit to the country. His lordship then proceeded to point out the various advantages which the public would derive from the establishment of this company, as contrasted with the system pursued by the pawnbrokers; and contended that the *Lord Chancellor* had not taken a correct view of the preamble of the bill. The learned lord had also overlooked the effect of certain clauses in the bill: there were some clauses in it, which made every member of the company liable in person as well as in purse, and those clauses relating to partnership, to which his Lordship had alluded, had been copied from an act, called "An Act for the better regulation of Partnerships in Ireland," which had received the learned lord's assent this session. He was satisfied that the bill was calculated to afford great benefit to the country; and it would therefore be matter of deep regret to him, if the learned lord on the woolsack, or the learned lord (Redesdale) who sat before him, should so surround it with technical difficulties as to cause it to be rejected by the house.

The house then divided—For the third reading—Content, 14—Not content, 27—Majority against the bill, 13.

### *London Water Works.*

COMMONS, TUESDAY, MARCH 1.—On the motion that the *London Water Works bill* be read a second time,

*Mr. Fremantle* said, he had been the chairman of a committee formerly appointed on the subject of water companies. His opinion had previously been, that the divisions which these companies had made of the metropolis was a monopoly, and that their profits were far too great. Upon inquiry he was induced to change that opinion altogether. He was far from thinking that competition was a desirable thing in these companies, and he hoped that the house would pause before they permitted new companies to be formed, the consequence of which must be the ruin of themselves or others. In none of the companies, he believed, had the proprietors received 5 per cent. on the amount of their capital.

*Mr. F. Buxton* said that in 1815, the present companies entered into an agreement with each

other, by means of which all competition was effectually prevented. They decided on what price they should demand. If they pleased they might refuse to supply any individual with water; and if a person quitted one company for the purpose of procuring a supply from another, he might be disappointed, since they had agreed not to interfere with each other's establishments. The hon. gent. had said, that competition was good with respect to every article but one, and that was water. It was strange that competition would not be beneficial, where a necessary of life was concerned. In 1810, when there was a competition, the price of water fell 25 per cent.; but in 1815, when competition was put an end to, it immediately rose 25 per cent. To understand the imposition, he begged to call the attention of the house to the case of a schoolmaster residing at Stratford. One of the companies agreed to supply him with water at 18s. a year. At the end of the year, they told him that they must raise the rate 100 per cent. They did so. In the following year, they advanced it 100 per cent. more; and last year they informed him they must add another 100 per cent. He thought proper to remonstrate; and what was the consequence? Why, they actually raised the rate by 200 per cent. last year.

Mr. T. Wilson said the hon. gent. (Mr. Buxton) had stated one fact, relative to the schoolmaster; but he had not told them how many boys were in the school when the charge was first made, and how many when the increase was demanded. The hon. member (Mr. Fremantle) had said that competition in this case was mischievous. He thought so too; and he held it to be equally bad in gas concerns.

The house divided.—For the second reading, 69—Against it, 30—Majority, 39.

FRIDAY, MARCH 11.—The sheriffs of London appeared at the bar with a petition from the Lord Mayor, Aldermen, and Common Council, against the formation of new water companies proposing to supply the city with water from wells.

Mr. C. Calvert expressed his apprehension that those wells, or pits, would be ineffectual as a means of supplying water, and that at the same time they would be injurious, by destroying the supply of water from springs, to several public establishments.

Mr. M. A. Taylor observed, that the house might judge of the manner in which some of those new speculations were got up, when he informed them that the very first intimation he ever received of the existence of this water company, was his having seen it in a newspaper, where it was ushered to the world as being under his special sanction (a laugh). It was true a gentleman called on him some time before, and, to his great surprise, asked for his opinion about all the water-works and wells in London. He told him what he knew on the subject, and the gentleman immediately observed, that he had a plan for procuring from wells sunk in the city and its vicinity, water of the very purest quality, inferior only to claret as a beverage (a laugh). He then showed him some plans by which it was proposed to sink those wells. He (Mr. T.) asked the gentleman whether he had considered the depths to which he might have to sink, and the difficulties attending the undertaking? To which he replied, that he had, but he was certain, that with his (Mr. T.'s) assistance, they should get through

(a laugh). He said, he could not afford him any assistance in the matter, but he advised the gentleman to take a walk in St. George's Fields, as there was a building in that vicinity well adapted to his frame of mind (hear, hear). In a short time after he (Mr. T.) saw his name announced as having given his sanction and support to the measure.

The petition was referred to the committee on the bill.

### *Metropolitan Fish Company.*

WEDNESDAY, MARCH 9.—TUESDAY, MARCH 15.—On the motion of Lord J. Fitzroy, for the second reading of the Metropolitan Fish Company bill,

Mr. Calcraft said, that this was one of the many absurd speculations at present afloat. Fish was at present brought to the London market at the cost of seven farthings a pound. It was said, that fish was dear at the west end of the town, but this was only because people at the west end of the town would have the best fish that could be selected from the market. He was informed that the first step which the company had taken was to employ an agent to conduct their business at a salary of 2,000l. This was, to be sure, an economical mode of going to work. He would not oppose the second reading of the bill, but when he met the supporters of it in the committee, he would dare them to a proof of the statements contained in their prospectus.

Lord J. Fitzroy observed that he had no private interest in the success of the measure.

Mr. T. Wilson said, that the company was formed for the benefit of the public, and would counteract the efforts of fish-salesmen to keep up the price of fish.

Mr. Alderman Wood said, that the company was established, not for the purpose of catching, but of buying fish. A retired fish-monger was to be paid 2,000l. a-year to go to Billingsgate to buy fish. The effect of such competition must be to raise the price of fish.

Mr. J. Smith thought that much good would arise from the establishment of the company.

The bill was read a second time.

### *London Brick Company.*

MONDAY, MARCH 23.—On Mr. Curtis's motion for the second reading of the London Brick Company bill, Mr. Calcraft said, that on the general principle which he had adopted with respect to such companies as the present, he would oppose this bill, unless (which he did not expect) he heard some good reasons from the opposite side that the act was necessary. He could not see why, if this company had only for its object the making of bricks, they might not do it without an act of Parliament.

Mr. Curtis said, that on the principle of competition and free trade, he thought the hon. member (Mr. Calcraft) might support the bill.

Mr. Calcraft said this was not free trade. This was the opposition of a company against individual industry.

The bill was lost, without a division.

### *Pasco-Peruvian Mining Company.*

WEDNESDAY, MARCH 16.—On the motion for the second reading of the Pasco Peruvian Mining Company bill,

Mr. Hobhouse said, that he should state his

opinion on this bill freely and explicitly, and he more, because both private and public means had been employed to intimidate him from doing so (hear, hear). But what he had to say he could prove; and, if it were necessary he could develop some details which would perhaps surprise the house not a little (hear, hear). The pretence on which these speculating companies came before the house, was that they might have power, for general convenience, to sue by an individual, and be sued. But this pretext was a miserable delusion: what they really wanted was, to be seen in communication with authority; they wanted to raise their shares in the markets, by having it understood that what they published was done with the knowledge and sanction of Government (hear, hear). He would shortly state the regular detail by which the original shareholders in companies like the present were daily putting large sums into their own pockets. The thing was done without the smallest risk, and almost without any advance of capital. Suppose for instance, a company projected, like the present; that there were to be 10,000 shares of 100*l.* each, making a capital of one million; and that the original projectors were 50 in number. The 50 projectors agreed at once to take all the shares among themselves. Each took 200 shares and paid a deposit of 5*l.* on each share, each advancing, in his whole proportion, 1,000*l.* Now by management well understood on the Stock Exchange, as soon as prospectuses were issued, and people came to purchase the stock, they were informed that the 5*l.* shares had risen to 16*l.* (hear, hear). Thus an original projector sold only 66 of his 200 shares, and got 56*l.* over his cost price—having 134 shares to get what he could for, clear profit upon the transaction. And this was supposing a moderate profit; in many cases the rise had not been from 100*l.* to 111*l.* but the 100*l.* shares had been resold at 600*l.*, 700*l.*, and even as high as 1,200*l.* (hear, hear), producing almost immediately, immense fortunes to the projectors, without the slightest risk on their part. The puffs and advertisements by which this system was supported were so disgraceful, that he should hardly expect belief from the house if he did not state them in their precise terms. In the first prospectus issued, he found the following statement:—"It (meaning the company) has already secured contracts for a long term of years for some valuable mines on the celebrated heights of Pasco." Now, with whom were these contracts secured? Why, with an individual of the name of Quiros, who was an expatriated patriot at the very date when that prospectus was issued, the Royalists being at that time in possession of the whole territory said to be contracted for (hear, hear). The same prospectus stated that "all engagements for the payment of money on behalf of the company" were to be made in such a manner, "that the liability of the shareholders should not, in any case, exceed the amount of the instalments remaining unpaid on their respective shares." Why this was not only in the teeth of the law, which already made every such shareholder liable to the extent of his whole fortune, but the bill absolutely brought into the house contradicted that whole regulation, and declared that it should not be lawful for the company to enter into any contract limiting the liability of its shareholders. In the prospectus, purchasers were told that they were not to be liable, and a bill was brought into parliament directly making them liable. Now, was

not this a delusion? People were to buy under one presumption, and to hold under another. The hon. member then adverted to the opinion of Chief Justice Abbott in the case of "*Joseph v. Febret*," and contended that the Pasco Company came entirely under the provisions of the Bubble Act. In the second prospectus issued by the company, it was stated that "a contract for additional mines in the district of Pasco having been entered into on behalf of this company since the publication of the prospectus, the directors deem it expedient to submit to the shareholders the following general outline of their new engagement:—It comprises upwards of 360 mines, each mine occupying a surface of about 1,800 square yards." Now he would call the attention of the house to a small book, which was published by order of the Viceroy of Lima in 1796, in which was given a list of the silver mines then worked. These were stated at 78, and the number not worked was 21; making in the whole 99 mines in the district, and these belonged to 72 owners; but in the face of this the directors stated that they had contracts for the working of upwards of 360. According to the account quoted from Humboldt, the mines of Pasco produced in 1796, 227,514 marks of silver; and in 1801, he gave their produce at 237,435 marks; and he (Mr. Hobhouse) supposed it would not be estimated at a greater amount if worked in the present day. Yet surely that must have been a very small amount if there were so many mines at work as the company would have the public believe. The directors, however, to meet this objection, quoted in their pamphlet an extract from the *Lima Gazette* of 1821, in which allusion was made to 3,000 mines in the district. Mr. Caldcleugh stated that there were 5,000 inhabitants in the district; so that it would appear that there was just one man and a quarter to each mine (hear, hear). He admitted there might be a great number of excavations or shafts communicating with the mines, but he utterly denied that there were so many mines in existence in that country. It was next stated, that there were in the vicinity of the mines, "fields appropriated to the growth of barley." Was it probable that barley would grow at an elevation of 13,000 feet above the level of the sea, where there were frosts every night? How was it, then, that all former miners employed in the country were entirely depending for support on the maize sent to them from Lima? The statement on the face of it was erroneous. But the matter was set at rest by Mr. Caldcleugh, who stated, that at an elevation much lower than that of the mines, at the height of 12,300 feet, he met with but one solitary shrub. The prospectus went on to say, "The owner has undertaken to convey the whole of this property to the company, either in perpetuity, or in any other manner which the laws of Peru might require for vesting in the company the exclusive right to possess and work the mines for their own benefit." Now he would contend that the gentlemen alluded to, Don Juan Vives, had no right of ownership. Neither he nor Mr. Quiros could convey any right of ownership; one was an expatriated patriot, and the other an exiled royalist, whose property had been put under sequestration. But it was said that this sequestration had never been enforced; but why had it not?—Because in fact, the mines had never been worked since. Gen. San Martin was no authority; he himself had run away from the country. But let hon. members refer to what was stated by Capt. Hall,

and they would find a very different account of the transaction; and it was more than probable that the Government of the country, when they came to have a settled government there, would reserve the mines for the use of the state; indeed, it was already intimated, that they were to be offered as a security for a loan which was about to be contracted for by the Peruvian Government here. The directors next talked of the coals discovered in the neighbourhood. Humboldt never said a word of any coals being there, but he (Mr. Hobhouse) would admit that a coal-mine had been recently discovered, yet it was much lower down the mountain. It would require great labour to extract coal, and greater to take it up to the mines. With respect to the statement of the directors, "that the present owner of this property stated that he had realized nearly 100,000 dollars per week for several successive weeks from one single mine;" he would observe that it was a novel proceeding to take account of the value of any thing from the seller. But the fact was differently stated in the Lima Gazette, to which they so willingly referred. That described the produce as 50,000 dollars, and that not from one, but from four mines; and Mr. Vives's property was valued at 400,000 dollars, which would be beyond all proportion below its value, if it had produced 100,000 dollars per week. He would admit the account given by Humboldt of the produce of those mines to be correct; and that they would yield two millions of dollars a year; but still, that would leave the company, who possessed only one tenth of them, not more than 200,000 dollars, or about 40,000*l.*, and from that the expense of working was to be deducted, which, when done, would leave those engaged in the speculation hardly any remuneration for their labour. This attempt had been made before, and without success. The same individual, Vives, had entered into a contract in 1814 with Messrs. Abadia, Arismende, Uville, and some others, with the owners of the mines, for draining and afterwards working them for a term of years. That was followed up by the sending out of some steam-engines from England, which, after several years, were erected. The first effects of the working of the engines had been hailed with transports by the Spanish authorities, as calculated to produce the happiest results, which, to use their own words, would "deluge the country with a torrent of silver;" but, notwithstanding all those great expectations, and all the assistance given by the local authorities, the hopes entertained had never been realized. The whole project failed; and the parties in this country who had engaged in it, and sent out machinery, could never get their contracts ratified, and he believed the whole of the Europeans who went out to superintend and assist in working the mines died, except one. If any parties could claim a property in these mines, it must be the creditors and representatives of Abadia, Arismendi, and the others. A claim of that kind had actually been made, and their interest was bid for on more than one occasion in the market. The house might form some idea of the difficulties attending the working these mines, when he stated, that it took 3,000 mules and 4,000 Indians to convey the two steam-engines from Callao to Pasco. The Government at the time put all those people into requisition to assist, but that was an indulgence which the present company could not hope for. The distance

from Pasco to Callao was about 56 leagues, and it required 16 days to accomplish a journey up, and 13 down. The objection founded upon the difficulty of travelling was attempted to be met by "A Pasco Shareholder," who stated that an officer in command of a body of troops, performed the journey down in six days. That might, perhaps, be true, but it did not meet the general objection. These were no longer looked upon as slaves, and all future operations in that country must be carried on by means of free labour. In Mexico the labourers were paid two dollars a day, and so it should be here. Was it considered what an immense drawback this would be on the profits of the speculation? He had heard it urged, that Spain had derived large revenues from the working of those mines. He admitted she had, because Government took its one-fifth of the gross produce, without any consideration of how many were ruined by the attempts at working them; but the house would, he hoped, not allow persons in this country to be ruined in a similar manner. If the directors meant to act *bona fide*, let them go on for a year or two with these operations without a bill. Let them prove the thing practicable, and then he would have no objection to granting them the privilege of suing and being sued in the name of their secretary; but at present he thought the bill would only have the effect of keeping up what he considered a delusion. He would therefore move, as an amendment, "That the bill be read a second time that day six months."

Mr. F. Burton said that in reply to the allegation that this scheme was impracticable—and that no such mines existed, let the house refer to what had been said with respect to the mines by that illustrious traveller Humboldt. He stated, "The mines of Pasco, which are worse worked than any other in Spanish America, were first discovered by the Indian Huarí Cupca in 1630. They yield annually nearly two millions of dollars. In order to form a just idea of the enormous mass of silver which nature has deposited in the bosom of these calcareous mountains, at the height of more than 4,000 metres above the level of the ocean, it should be remembered that the bed of argentiferous oxide of iron in Gaurilecha has been worked without interruption from the commencement of the 17th century, and that during the last 20 years more than 5,000,000 marks of silver, (equal to 40,000,000) have been extracted." Would this statement of Humboldt's be also called delusive? But the fact did not rest on the authority of Humboldt alone. It was confirmed by several able and intelligent travellers, and was stated with a confidence of its truth by the intelligent gentleman who was secretary to the Mexican embassy. He would, in corroboration of the statement, read an extract of a letter written by the son of the hon. member for Southwark (Sir R. Wilson) who was at present *side-de-camp* to Gen. Bolívar, and with him in that country. In that letter, he says "It is very surprising to me, but nevertheless it is strictly true, that silver is in such plenty that the meanest utensils are made of that metal. I could for a few knives, or other articles of iron work, procure several pounds of it; but this abundance is comparatively of little value, in consequence of the difficulty of conveyance" (hear, hear). This statement, then, so fully corroborative of what had been already mentioned by Humboldt,

could leave no doubt on the mind of any man of the great abundance of silver in those countries. In addition to these, he had the testimony of an officer who commanded a part of the independent troops in 1821, that silver was extracted in large quantities at that time by means of the steam-engines sent out from England. It was farther proved that there had been discovered, within a short distance of the mines, a valuable coal-pit, which afforded abundant fuel for all the purposes of mining. The hon. member had spoken of this as if it were at a considerable distance from the mines; but the fact was, and he had it from one who was on the spot, that it was not more than a league from the mines. With such advantages, then, how could the company be called a delusion? But it seemed that the company had not a good title. He had seen the documents on which that title was founded, and he had not the slightest doubt that it would be recognised by the Government of Peru. He did not think the hon. member dealt fairly with the company, in the interpretation which he had put upon that part of the regulation in which it was stated "that all engagements entered into on behalf of the company were to be made by trustees, and in their own names, and in such manner that the liability of the shareholders shall not in any case exceed the amount of the instalments remaining unpaid on their respective shares." Now, he thought that the fair and natural interpretation of that was, that the engagements would be conducted with such attention and economy, that the shareholders would be protected from the risk of being called on for any thing beyond the amount of their instalments. Having thus said a word on one side of the question, he would call the attention of the house to another, and would give them some information as to the cause of all the calumnies which in public and in private had been circulated against this company. When it was first established, a person named Dubois wished to be concerned in it, and to obtain some shares; but the directors, for reasons which it was unnecessary for him to state, refused to have any connexion with that person. Immediately after, they were attacked, their intentions grossly misrepresented, and their object described to be nothing but a delusion on the public for the purpose of putting money into their own pockets. Yet after this, the same Mr. Dubois came to some of the directors, and, in the presence of two or three respectable individuals, said "I am the author of all the attacks which have appeared against you. I have originated and given circulation to the reports which have been spread to your disadvantage; but if you will now give me twenty shares, I will go and recant all that I have hitherto said. I will tell the whole truth, and be the means of raising the shares in the market 20 per cent" (hear, hear). This offer was rejected with indignation; but notwithstanding that, he came yesterday morning, and repeated the application, lowering his demand to ten shares (hear, hear). This was also refused; and of course the company were to expect a continuance of that person's hostility. But would the house, by rejecting the bill before them, sanction such a base attempt as this? He trusted they would not; but, by giving leave to have the bill sent to a committee, give the company an opportunity of showing the fallacy of the statements which had been circulated against them.

Mr. T. Wilson said, that he had examined the objections urged by the hon. member, and put by others out of doors, and he could state his perfect conviction that they were unfounded. He thought the charge which the hon. member made respecting the whole of the shares being divided among 25 or 50 persons was most ungracious. The fact was, that a very large portion of the shares when they came out were distributed among the public—to those who had applied for them by themselves or their friends. He (Mr. W.) had written for some, believing, as still he did, that the speculation would be a profitable mode of employing capital, and the directors set his name down for five, so that his interest was but very small in the concern. The directors reserved 100 each for themselves; so that, if it was a delusion, it was on themselves, and not on the public. There was only one objection which the hon. member had urged which had any weight. It was, that the climate was so very unhealthy; but let it be recollected, that it was not intended to send out whole corps of English miners to work those mines. They would still be worked by the natives, but under the direction and superintendence of a few English miners, who would carry with them that skill and knowledge in which the native miners were deficient. Looking at all the circumstances, he felt convinced that this was a fair and *bona fide* speculation for the purpose of working the mines, and that it would be pursued with advantage.

Mr. Baring said, that it was deplorable to see the gambling mania at present abroad; it had seized upon all classes, and was spreading itself in all parts of the country. If it was to be lamented that men of the first rank and family in the country haunted gaming-houses at the west end of the town, it was still more to be lamented that merchants at the east end of it should imitate their example, and make a gaming-house of the Royal Exchange. He saw no difference between the gambling of noblemen in the hells of St. James's-street, and the gambling of the merchant on the Royal Exchange, except that the latter kept earlier hours and more respectable company than the former (hear, hear). The evil was certainly one which ought to be checked, though he hardly knew how the check could be applied. The remedy would be worse than the disease, if, in putting a stop to this evil, they put a stop to the spirit of enterprise. That spirit was productive of so much benefit to the community, that he should be sorry to see any person drawing a line discriminating between fair enterprise and extravagant speculation. He believed that all the mining speculations would turn out to be delusions, and that many innocent persons, who had embarked their little capital in them, with the expectation of realizing large fortunes, would be awakened some day unpleasantly from their dreams of grandeur, by the intelligence that their all was lost. It was ridiculous to see the objects for which joint stock companies were forming every day. We heard first of a milk company—then of a bread company—then of a brick-bat company, and last of all a lime company, which was to have a joint stock of 150,000*l.* to work eleven acres of chalk. What to do with these companies he knew not; but that something should be done was indisputable. On the first day of the session, a person of great influence in the Cabinet (the Lord Chancellor) had given notice that he would ap-

ply his mind to the discovery of a remedy for this evil; but he was afraid that the remedy would be matter of doubt with the personage to whom he alluded, until the disease had either carried off the patient, or had been cured by the effort of nature.

Mr. Calcraft observed, that notwithstanding the unpromising state of the house, from the few members in attendance, he was anxious to express his opinion that his hon. friend (Mr. Hobhouse) had made out a clear case against the present bill. The truth was, that when he looked at all these schemes, and saw 28 members of parliament at the head of their respective directions; when he saw a name, often in the chair of its committees (hear, hear), so generally amongst them, he felt justified in saying, that the only real mining was parliamentary mining (a laugh). In his belief, such a system of proceeding could neither add to the wealth, the character, or the prosperity of the country. He was therefore prepared to oppose the second reading of the bill.

After some further conversation the amendment was withdrawn, and the bill ordered to be committed.

### *Liverpool and Manchester Rail-way Bill.*

WEDNESDAY, MARCH 2.—On the motion for the second reading of the Liverpool and Manchester Rail-Way bill,

Sir J. Newport said, he had nothing whatever to do with any canal or rail-road, and therefore what he was about to state was perfectly disinterested. In proportion to the increased commerce of the country, it was necessary that increased facilities of conveyance should be provided. It was said, in the present case, that the canal between Liverpool and Manchester afforded, at this moment, sufficient means of conveyance between those two places. But looking at the enlarged growth of Liverpool, and its increased commerce, he was inclined to think, that though the existing modes of conveyance might have been adequate heretofore, they were not so now. To afford an increased facility of conveyance was the object of the present plan, which was supported by the united wealth of Liverpool and Manchester. The company claimed from the house that protection for their commercial transactions which it was evident they deserved. It was not sufficient for those who were connected with canal companies to say, "We have sufficient accommodation for you, the merchants, and that, too, at a rate to which you cannot object." It was not for them, but for the mercantile body, to form a judgment on that subject. In supporting this measure, he was sure also, that he spoke the sentiments of every commercial body in Ireland, all of whom had instructed their representatives to give it their countenance.

Mr. Green said, that there were already three canals between Liverpool and Manchester, whose competition secured the public from the inconvenience of monopoly. The present plan would interfere very seriously with private property. He knew one individual whose land was bounded by a canal on one side, and by the high-road on the other, and now they were going to run this rail-way through the centre of his estate. They ought to look to the interests of individuals as well as to those of the public; and he should therefore oppose the bill.

Mr. Huskisson agreed, that the legislature ought not to sanction the invasion of private property, without being satisfied that the case was one of imperious necessity. On this occasion, if he looked only to the interests of individuals—if he looked only to the interests of those whose fortunes were connected with the canals between Liverpool and Manchester—if he consulted only his own private feelings—he should feel inclined to oppose the bill; but, like the hon. bart. he stood there unconnected with any railways or canals. In voting for this measure, he did not support it as rail-way opposed to canal. He had no preference, except that which was connected with increased facility, dispatch, and economy, in the carriage of merchandise. He did not support this measure because it was a profitable thing to those by whom it had been projected. It was nothing to him whether they had embarked their money in it for profit or loss. But in this case he was inclined to think, that the subscribers seemed to have a higher object in view than the mere accumulation of wealth. They were the bankers, merchants, traders, and manufacturers of Liverpool and Manchester. They had agreed that no person should hold more than ten shares each; and if gentlemen would consider what amount of profit could be realized on so small a number of shares, they would perceive that that could not be their object. It was the great interest of the trading community, and not the profits that might be derived from the shares, which mainly actuated these parties. But it was said, that the present canals were sufficient for every purpose of commerce in the districts through which this railway was to pass. It was, nevertheless, well known that cotton had been detained at Liverpool for a fortnight, while the manufacturers at Manchester were obliged to suspend their labours; and goods which had been manufactured at Manchester for foreign parts could not be transmitted to Liverpool in time on account of the tardy canal conveyance. Not less than 1,000 tons of goods a-day were embarked on these canals between Liverpool and Manchester; and if the carriage were not immediate, the merchant and manufacturer were placed in a situation of great disadvantage. The railway company said, they would transmit goods not only at a less charge, but with greater facility than the canal companies could do. These were the great points to be looked to. We who maintained a commercial rivalry with all the countries in the world, ought to look to dispatch—ought to look to economy—for the purpose of securing our present advantages. An hon. gentleman had observed, that if a rail-road were formed, and a toll of 6d. per mile demanded, that toll must be raised to 1s., should another rail-road be directed from and to the same place, because the business would be divided between them, and the original charge of repairs, &c. would remain; but the answer to this was, that where two roads were formed, the traffic must have been doubled, and therefore the rate of 6d. would still remain, notwithstanding the formation of a new road. In 1821, only four years ago, the amount of goods exported from the port of Liverpool—a great part of which, he need not state, was brought by those canals to that town—was 11,500,000l. In 1824 it was upwards of 19,000,000l.: and that exclusive of fuel, and other things necessary for the consumption of



Liverpool and Manchester, which were carried on those canals. Under these circumstances, he thought the projected railway ought to be carried into effect. Those who were connected with the canals would then be obliged to pay more attention to the mode of conveyance—they would be compelled to lower their tolls and to use greater dispatch. These, however, were all advantages gained by the public; and the proprietors of canals would find ample remuneration, since there would be sufficient employment, not only for the rail-way, but for a first, a second, and a third canal. He should, therefore, support the bill.

Mr. W. Peel said, this measure was not exclusively beneficial to Liverpool, but to the commerce of the country generally, and more particularly Ireland. There was about as much reason in the complaints of those who were connected with canals, and who therefore wished to stifle this measure, as there was in the petitions of the inn-keepers on the Kent-road, who objected to the steam-packet navigation, because it interfered with their profits. In the neighbourhood of the place where he resided, from twenty to thirty waggons were formerly employed in the carriage of goods; but he believed scarcely one was now occupied in that manner. The alteration must have pressed on the owners of those waggons; but the public derived great advantage from the introduction of a new system. This must always be the case; but it afforded no argument, in policy or justice, against the adoption of an improvement.

Mr. G. Phillips observed, that there was a large body of landed proprietors, through whose estates this rail-way was to be carried, and they complained of it as likely to prove a great annoyance and nuisance. They said, that, before such a measure was determined on, a strong case of public necessity and advantage should be made out, to justify the house in carrying the project into effect. They asserted, that such a case had not been made out. Now, he was of opinion, that considering the existence of the three canals between Manchester and Liverpool, no such case could be established. He thought that a rail-way could not enter into a successful competition with a canal. Even with the best loco-motive engine, the average rate would be but  $3\frac{1}{2}$  miles per hour, which was slower than the canal conveyance. If the canals had an ample supply of water, it appeared to him that they would be perfectly competent to convey, with sufficient speed, all the merchandize that passed between Manchester and Liverpool. It was alleged, that the canal proprietors had not sufficient wharfs and warehouses for carrying on the business. Yet, in the very face of this assertion, those who were favourable to the present measure, would, if it were agreed to, carry the road through the wharfs and over the site of the warehouses of those persons whom they represented as being ill provided with accommodations of that kind already. Under these circumstances he should oppose the measure.

Mr. Brougham said that there was nothing in the statements which had been made to induce the house to refuse the committee. He hoped that this would form an exception to the common practice of committees, and that the members would attend and vote without permitting the influence of gentlemen, or the wives of gentlemen who might be interested in the mea-

sure, to have any weight with them. He pledged himself if a contrary course were to be followed, that he would bring the matter before the house, and do all in his power to enforce the due attendance of the committee.

The bill was then referred to a committee.

### *St. Catherine's Docks Bill.*

TUESDAY, FEB. 22.—On the motion for the second reading of the above bill,

Mr. C. Calvert declared that he would at a proper time avail himself of the suggestion that had been thrown out, and object to gentlemen who were interested in the measure giving their votes in favour of it. Never was a bill brought into the house in so barefaced a manner as that in which this bill was introduced last year. Persons holding shares to the amount of 50,000l. had voted for it. Now the shareholders were more numerous, and they hoped to carry the measure in a different manner. He concluded by moving—"That the bill be read a second time this day six months."

Mr. Manning seconded the motion. The London Dock afforded sufficient accommodation to the commercial world. The London Dock Company had 13 acres of land, and, if additional accommodation were required, they could furnish it.

Mr. Wallace expressed himself strongly in favour of the bill. The parties who sought for it wanted no exclusive advantages. All they wished for was fair and open competition. It was fit, that in a great commercial country, there should be competition in undertakings of this description. Accommodation, and that of the best kind, should be given to their merchant-vessels, and that would be best obtained through the medium of open competition.

Sir J. Perks would advise gentlemen to keep their money in their pockets against a rainy day, instead of trying to ruin each other by embarking in all sorts of projects. He wished to give every protection to the mercantile marine of this country. He was anxious that the Thames, which was the high road to these docks, should be kept as clear as possible, that ships might pass up and down the river with as little difficulty as coaches passed through the streets. But he thought there was sufficient dock-room already. When he saw the number of bills which were called for, he felt that there was a clashing of interests, which was likely to end in the ruin of different parties. There were companies of all descriptions: companies to bring salt water from Brighton, and air from Bognor (a laugh)—companies to bring "Airs from heaven, and blasts from hell" (laughter). When he saw this—when he observed the variety of clashing interests that were concerned, he fell back on his own resources, on the principles of his own unconquered mind (a laugh)—and he seriously asked himself, whether the gentlemen who thus employed their capital were in the right. In his opinion they were not; and therefore he should oppose the bill.

Mr. C. B. Monck objected, not to the principle, but to the operation of the bill in the particular place which was selected for the erection of the docks. The parish contained 8 or 10,000 persons, who were chiefly employed in the lighters on the river, and they would be deeply injured, if it were carried into effect. He objected also to the sacrilegious exhumation

tion of the ashes of the dead, which must be a consequence of it.

Mr. Alderman Thomson said that a large number of the inhabitants of the parish of Bermondsey had consented to the measure, and almost the whole body of merchants and ship-owners were unanimously in favour of it.

The house then divided.—For the second reading, 118—Against it, 30—Majority in favour of the second reading, 88.

### *Colliers' Dock Bill.*

WEDNESDAY, MARCH 23.—Sir J. *Yorke*, in moving the second reading of the collier dock bill, adverted to various public advantages which were to result from it. The increased number of the coal vessels made some such measure absolutely necessary to the navigation of the river. It would also have the effect, by assuring a regular supply, of reducing the price of coals.

Lord *Althorp* opposed the bill, which he said was an act to compel all coal vessels to go into these docks and pay the dues, which were to form the profit of the proprietors. He should move, as an amendment, that the bill be read a second time this day six months.

Mr. *Calcraft* said that the bill did not compel the colliers to go into dock; it only forbade them to lie in the stream of the river.

Sir G. *Cockburn* said, that great injury was done to the navigation of the river by the immense masses of shipping that lay constantly in the stream. The tide was so obstructed, that banks were formed to a great extent from the deposit.

Mr. *J. Smith* opposed the compulsory clause, which prevented colliers from unloading in the stream, which was just the same as saying that they should not unload in the river at all. He had no objection to the bill if this clause were removed.

Mr. *Stuart Wortley* thought that if the Isle of Dogs dock should turn out to be an advantage to the colliers, they would resort to it without compulsion; and if not, it would be unfair and unjust to compel them.

Sir M. W. *Ridley* would not consent to the second reading of the bill as long as it contained the compulsory clause. He objected to the practice of introducing public clauses into private bills. If any evil were believed to exist from the practice of colliers unloading in the stream, let a public committee be appointed to inquire into it; and if their report should recommend it, let the evil be remedied by a public bill; but let it not be introduced in this manner in a private bill.

The house divided.—For the second reading, 66—Against it, 31—Majority, 34.

### *Western Canal Company.*

THURSDAY, MARCH 3.—Sir T. *Lethbridge* brought in a bill for making a ship-canal from Seaton Bay, in the county of Devon, to Bridgewater Bay, on the Bristol Channel. It was intended that it should admit of vessels of 900 tons burden; and one of the chief advantages which it held out to the public was the time which would be saved, and the risk to men and cargoes which would be avoided by its affording a way to ships without the necessity of their encountering the dangerous navigation of the Land's End. The plan had been submitted to, and had

received the approbation of many persons who were best enabled to pronounce upon it, and they had all agreed that it would be highly advantageous. The whole of the capital required for this canal had been actually subscribed, and amounted to 2,000,000l. The canal would pass through a very considerable extent of country, some of which was of a poor, some of a rich description. The number of persons over whose property it was to pass, was about one thousand. Of these 918 had been applied to, and only 50 of that number offered any objection to it. It was to pass near and through several large towns, the commerce of which would be considerably benefited by it. The coasting trade would also be made more secure, because it was intended to form spacious bays at each end of the canal, one of which would offer a harbour to ships in the British, and the other to those in the Bristol channel, in case of storms; and lastly, by the facility of communication which it would afford, the traffic between England and Ireland would be materially improved.

Sir J. *Yorke* feared that the proposed canal might have a detrimental effect on the coasting trade, and by shortening it destroy that service which had for many years been so excellent a nursery for seamen, and contributed in a very great degree to the brilliant victories which had distinguished the arms of this nation by sea.

Sir T. *Lethbridge* said, there could be no chance of the canal having the effect which the hon. bart. feared, because the voyages of the ships were neither to begin nor end at the canal, but it was only to facilitate the voyage between the two channels.

The bill having been read a first and second time, was ordered to be committed.

### *Law of Merchant and Factor.*

THURSDAY, JUNE 2.—Mr. *J. Smith* rose to present a petition, signed by nearly all the principal merchants of London. They complained of the operation of certain laws relating to merchant and factor, which they described as injurious to the general interests of commerce. He had, in the last session, brought forward a bill on this subject, of which the object was defeated in the other house, by substituting another measure quite inadequate to remedy the evil of which the petitioners complained.

Mr. Serjeant *Onslow* supported the petition, and thought the country indebted to the hon. member for calling the attention of the house to this important subject.

Mr. T. *Wilson* described the subject as most important to the commerce of the country. Although this was only a petition from the merchants of London, he felt convinced that it represented the opinions of the merchants of every town in England.

Mr. *Huskisson* said, that as the present was not the fittest time for discussing this important question, he would abstain from entering into it. He was not indifferent to its importance, and if any measure should be introduced respecting it, he should give it his best consideration.

Mr. *Scarlett* hoped, that if any measure were introduced it would be done in an intelligible manner. For his own part, he did not understand the bill of last year, and the measure which was carried was not yet understood by the judges. He

should be sorry to oppose any measure calculated to improve the commercial regulations of the country; but he hoped that no future bill would contain that objectionable clause which took from a man the fair dominion over his own property, and allowed others to speculate at his risk.

The petition was ordered to be printed.

**LORDS, TUESDAY, JUNE 7.**—The Earl of Liverpool rose, on the order of the day, to move the second reading of a bill for amending the law of merchant and factor. In the first place, he wished to call attention to a petition in favour of the alteration proposed, which was signed by almost all the respectable merchants of London—by general merchants, East India, West India, North and South American merchants, those who traded to the north of Europe, to Spain, Portugal, and the Levant—in short, by the representatives of every commercial interest. The question which this bill involved might present some difficulty to persons who, like himself, were little acquainted with the details of commerce. He should endeavour to state briefly, the general grounds on which he wished to recommend the bill. It was to be expected in the present state of trade, that many cases should arise, in which laws enacted at an early period would prove embarrassing—laws, which, however politic in their origin, would become incompatible with the present state of commerce. With regard to the law of merchant and factor, if the mere principle of the contract between these parties were considered, there could be doubt that the agent ought to be bound to the extent of his principal's orders. But in the present state of trade, it was often impossible for the merchant to do more than make a general consignment, by which the factor was left to determine when he should bring the goods into the market; and if it should not be a proper time for throwing the article into the market, it was often necessary that he should be empowered to raise money upon it, by pledge. Thus far there was no doubt that the factor was bound by the instructions of his principal. But here a difficulty intervened, with respect to third parties. When the factor pledges the goods, the party lending money upon them—the pledgee—deals with the factor as owner; for as to the title of the party pledging, he can have no means of ascertaining it. He would, of course, know no more of the ownership than the fact of possession; unless the possessor chose to make disclosures. Now, supposing fraud or bankruptcy in the factor, was the loss to fall on the principal or on the pledgee who might have advanced money on the goods? It was said that if the factor's instructions were merely to sell, he could not pledge; and that in the case of pledging the loss ought to fall on the pledgee. Such was the law. But this was contrary to the principles of natural equity—contrary to analogy—contrary to very high authority—contrary to the law in other countries. The liability of the third party was contrary to the principles of equity, because the pledgee advanced his money on the mere possession of the factor, which was all he was able to ascertain. But it might well be assumed that the principal was acquainted with the person he employed as his agent; at any rate he could qualify his power, or deprive him of all authority to act. A principal might, doubtless, be defrauded by a dishonest agent;

but he must know he had the power of appointing or dismissing him, and stood, with respect to him, in a very different situation from the pledgee. The person who advanced money saw nothing, probably knew nothing, but the goods, upon which, as a sufficient security, he advanced his money; and therefore, upon every ground of equity, if there were a loss, it should fall upon the principal or the agent, and not upon the pledgee. The present state of the law made a distinction between possession and title to merchandise; but he did not see how it was possible for trade to be carried on, if possession were not allowed to be *prima facie* proof of title. The petition on the table proved that this might be the law, and the greater part of the commerce of London, and two-thirds of the foreign trade of the country, already rested on this principle of general equity. In support of this opinion he would refer to analogous transactions with regard to money. If a person consigned Exchequer, or indeed any other bills, to another, who pledged them to a third party, the pledgee had a right to the property. With regard, therefore, to all money securities, the law made possession a good title. In point of authority, the first decision which set up the present law took place in 1742; but against this decision he had the high opinions of Lord Ellenborough and Mr. Justice Le Blanc, who had regretted that such should be the practice; and to these opinions he referred as sufficient authority for altering the present law. He came now to the last consideration, which was, that the present practice was contrary to the law of every other country on the subject, except England and the United States, who had borrowed their laws from England. He was informed that the evils of the law had been felt in America, where it was about to be discussed in Congress. The protection he proposed to afford to the pledgee, was even at this moment the law of Scotland. On all these grounds he recommended the adoption of this bill.

The bill was read a second time, and ordered to be committed on Friday.

**COMMONS, TUESDAY, JUNE 28.**—Mr. Huskisson moved the third reading of Lord Liverpool's bill; whereupon

Mr. Scarlett rose to oppose the motion. After much prefatory matter, the learned gent. said that the general question, involved in this measure, might be stated thus: should an agent who held a bill of lading, or other order for receiving the goods of his principal, for the purpose of sale, or for any other specific purpose, having no claim whatever against the principal, have power by law to raise money upon these goods by pledge of the document or order, for his own benefit, or for some object in which the principal had no interest, and thereby, if he became bankrupt or insolvent, deprive his principal of the right to reclaim the possession of his property remaining unsold, except upon the condition of redeeming the pledge? Now, to determine fairly upon this question, it was necessary to consider who were the parties that could have any interest in it. The first was the principal whose goods were placed in jeopardy; the second was the agent or factor; the third was the money-lender. He presumed no argument could be necessary to satisfy a common understanding, that the principal or true owner of the goods could never be the advocate of a measure, that had a manifest ten-

dency to diminish his own security. It might be said, that the facility of raising money upon the pledge of goods had a tendency to prevent their being thrown upon a falling market, and that the owners of goods upon sale had a general interest in this, which outweighed the risk they ran of the insolvency of their factors. It was difficult to deal with an argument that presented itself in so abstract a form. He believed that the owner of goods on sale was more apt to consider his own individual hazards and interests, which he could easily comprehend, than the general interests of the extensive class in which the argument placed him. If a factor had actually advanced money, or accepted bills for the benefit of his principal, it was admitted that there could be nothing unjust or injurious to the principal in permitting the factor rather to pledge the goods for reimbursing himself, or paying the bills, than to compel him to a forced sale of the goods. This case, when it occurred, every owner of goods could understand. He could see that his interest was in no way prejudiced, since he must pay the money due to the factor by the sale of the goods or otherwise. But beyond this point, he was persuaded, that the general abstract interest of vendors in sustaining high market prices, would never be of sufficient force to induce an owner of particular goods to put them in hazard for the credit of a factor. On the contrary, he believed, that the owner of goods would never trust them with a factor to whom he was not indebted, but upon the understanding that the factor had capital enough to sustain his credit without in any measure sacrificing the property of his principals. It was well known, that in a great variety of trades there existed a competition amongst factors, which induced them to offer various portions of the invoice price by way of advance to their principals, in order to invite a preference. Now this mode of dealing plainly implied, that the factor held himself out as in possession of adequate capital to do even more than the strict duties of a factor required. How then could it be assumed, that the principals generally anticipated the possibility of a want of credit in their factors leading to forced sales? But if this general theory of the abstract interests of the owners of goods on sale were founded on truth, it ought to follow, that the factors should be rather encouraged than not to raise money by pledges; whereas, by an inconsistency somewhat new in legislation, they were by this bill declared criminal, and made liable to fourteen years' transportation, for doing that which the argument supposed to be a general benefit, and which the same bill sanctioned and made binding in law upon innocent parties who were defrauded by it. Moreover he was not prepared to admit that there was any public benefit resulting from that degree of facility in procuring money upon goods, which tended to raise them to an artificial price. It was far from his intention to embark upon this topic in the present argument; but the power of turning every commodity in the market into its nominal value in currency, which in effect was the enhancing of prices by an indefinite augmentation of that currency, and not of the real wealth of the country, implied an artificial state of the currency, which could neither be lasting nor advantageous to any community.—The next party whose interest was involved was the factor. Now it might well be doubted,

whether a law which carried along with it a penalty upon him could be intended for his benefit. And it might, he thought, he assumed, that there was as little of wisdom or policy as of morality, in making a law for the express purpose of sanctioning the fraud, and increasing the power of a dishonest agent. It was plain that the law was applicable to such agents only. An honest factor might undoubtedly be reduced by misfortune to the necessity of borrowing money; but he denied that any honest man would borrow money upon the goods of another, in which he had no interest; still less would an honest man make a false representation of his title to the goods on which he sought to borrow money. It followed then, that the interest of an honest factor could not be concerned in this law. That it would serve the ends, and gratify the wishes of some factors, he entertained no doubt; but he could not think it either necessary or wise in the legislature to pass a law for the benefit of that description of factors, to whom alone, he was most confidently of opinion, that this law, when rightly understood, would appear to be beneficial. They would calculate upon the remote risk of prosecution by a principal residing abroad; whom they would always protest they intended to serve, not to defraud, when in a season of necessity, produced by their own imprudent speculations or extravagance, they found it expedient to satisfy their English creditors, by distributing amongst them the goods of their principals; and at all events, to make no enemies of their bankers, with whom, when their difficulties were over, they might desire to open a new account.—The only remaining party whose interest was to be considered, was the lender of the money upon the pledged goods. To him he most freely admitted, that the proposed law was highly advantageous. Nothing could be more useful or desirable to the lenders of money, than a rule of law which might dispense with all caution about the nature of the title on which they lent. To them it would be highly advantageous to make the mere naked possession of property of all description, and in all cases a conclusive title against all mankind. They might then accept property of all sorts, and from all manner of persons, upon pledge without risk. It would greatly facilitate all transactions of lending money, and add much to that species of commerce, if it were clearly established that the lender was never called upon to make any inquiry about the title of property offered in pledge. It was very well understood even now, that the shops which bought or advanced money upon all manner of goods without asking questions, had a vast superiority of custom. But unfortunately, an opinion had hitherto prevailed, which had tended to discredit this species of traffic. It had been thought, perhaps from mere prejudice, that if there were no receivers, there would be fewer thieves; and that one of the best modes of protecting property from fraud and plunder, was to expose the receiver, in some cases, to punishment, and in all cases to the loss of the property which he had received through the felony, the fraud, or the embezzlement of the party from whom he obtained it. It had been thought, moreover, a strong argument against the receiver, that he should have made no proper inquiry of the party offering him property upon pledge or sale. The man who voluntarily

turned his eyes away from the light, that he might afterwards seek for shelter in his own ignorance, surely suspected the existence of that which he thought it not safe to discover too clearly. If this observation were just, it was as applicable at least to the best informed merchants and bankers, as to the more ignorant part of mankind. It was therefore very fit to be considered, admitting the benefit of this law to money-lenders, whether it could be of any real advantage to commerce to introduce this sort of morality into it by Act of Parliament, and to what extent, if once introduced, it must be carried. Now it was manifest, that a banker or merchant applied to by a factor to lend money upon the pledge of goods, must be aware that if the borrower were honest, and meant to pledge none but his own goods, he could not possibly have the slightest objection to make his title to the goods known, by producing his invoice, or his letters of advice. The application for money disclosed his necessity. The disclosure of his title, if it were a good one, could have no other effect than to strengthen his credit. No man who wanted credit could feel any desire more natural or more strong than that of displaying the resources which could best procure him credit. He gained confidence by it, was the more certain of immediately attaining his object, and could by no possibility do himself or any other man any injury by it. In all imaginable cases, therefore, where such an application was made by the holder of bills of lading, or other orders for the delivery of goods, without at the same time shewing or offering to shew his invoices or letters of advice, the money lender had, *from that very omission*, the more reason to suspect that the ambiguous documents which were alone produced were held by the party applying in the character of a factor or agent, and not that of a principal. The plain dictates of honesty and good faith in such a case, surely more imperiously prescribed that the lender should demand an inspection of the particulars withheld. Wherever he omitted to do so, the inference was plain, that he feared he might be pressing for an embarrassing disclosure. Those who were conversant with cases of this kind in courts of law, were well aware of the many shifts to which he who was desirous of lending money to a needy man, upon pledge of goods, without risk was obliged to resort. The most common of these was a fictitious sale of the goods. The suspicious lender, unwilling to embarrass his friend, or to imply a doubt of his integrity, which he really felt, was not disposed to take goods upon pledge, but he had no objection to purchase them, if he could be sure of a small profit. The borrower had no difficulty in satisfying him; he offered to repurchase the goods to be paid for at a future day, at a small increased price. Sometimes a third party intervened, who became the intermediate buyer and seller. He appealed to his learned friend (the Attorney General) if he had not had very recent experience in the Court of King's Bench, of these dextrous expedients. They were, it must be owned, not so convenient a machinery for fraud as the more direct road opened by this bill; and what was worse, they were sometimes, more especially in cases of bankruptcy, found ineffectual. The basis of the transaction was fraud, and it had been hitherto one of the most universal maxims of the common law, that fraud vitiated and avoided all transactions

of which it made a part. But this bill proposed to qualify that maxim, in the particular case in which the fraud and dishonesty of the borrower of the money, was combined with the affected ignorance and real suspicion of the lender. For no advantage then of the principal, for no advantage of the honest factor, but for the mere benefit and security of the careless at least, if not the crafty and suspicious lender of money, a law was to be passed, whereby a dishonest factor or agent of any kind might more successfully defraud his principal. Was the necessity of lending money then so urgent, that it must be the paramount object of legislation? Or was it worthy of the character of the law of England, that it should lend an express and positive sanction to such transactions? That it should proclaim free liberty of fraud as part of the freedom of trade, and consecrate in the very sanctuary of legislation the principles of treachery and spoliation?—But it had been said, that admitting the factor to be guilty of fraud, and to merit punishment, the question was between two innocent persons, which should bear the loss resulting from that fraud, the one who had placed confidence in a dishonest factor by trusting him with his goods for sale, or the lender of the money who had placed no confidence, but exacted the security of goods for his loan? It would be easy to shew the sophistry of this mode of stating the question. In the first place, it was not true that the lender had placed no confidence in the factor, but just the reverse. The lender knowing that the true owner of merchandize must always be in possession of documents to prove his title, had chosen to rely upon the representation of the borrower, or upon an ambiguous bill of lading or order for delivery, without demanding those documents. In the next place, the lender was aware that the borrower was pressed by some urgent call for money, and that a man who was obliged to borrow was never unwilling to shew his title to credit if he had any. It was the lender, therefore, who, disregarding circumstances that ought to have excited his suspicion, had placed an unwary confidence in the mere personal character of a necessitous borrower. Whereas the principal, more especially the foreign principal, had less means of knowing the circumstances of the factor, and had confided to him nothing but what was warranted by the usual course of trade. Every man who carried on a particular branch of business, held himself out to the world, and might be reasonably presumed by those who dealt with him in that line only, to have competent skill, integrity, and resources for his ordinary business. Nor could it be reasonably supposed, that any owner of merchandizes would intrust them for sale to a factor whom he thought deficient in any of these points. But the man who dealt with a factor, not in the way of his business, but in transactions of lending him money, must surely know best, or at least was bound to know best, what were his resources. Besides, the foreign merchant was under the necessity of trusting his goods to a factor for sale; he could not otherwise conduct his commerce. But what necessity had any man for lending his money upon the pledge of goods? What obliged him to do so without first ascertaining the title of the borrower? How would commerce suffer if no factor should hereafter ever be able to obtain money upon goods in which he has no claim or interest? The true way then of stating

the question seemed to be this:—Whether of the two parties, supposing them equally innocent of fraud, should the loss fall upon—him who had lent his money without necessity, without inquiry, and under circumstances that justified suspicion, and called for inquiry, or upon the owner of the goods, who was under the necessity of trusting an agent with them, who did not know of the embarrassment of that agent, and who had no negligence or want of caution to reproach himself with? But it was said, that the foreign principal might easily protect himself from the fraud of his factor by inserting his name as agent in the bill of lading. Those who insisted upon this topic had not considered, and probably were not aware, how many questions, and how much litigation, would necessarily arise from the introduction of a new clause into a long established and well understood instrument. Many doubts would occur as to the rights of third parties, as well as of the agent himself, under such a bill of lading: at present no doubt existed. But let it be recollected, that this measure was not confined to a bill of lading, but extended to every warrant or order for delivery of goods. Now, supposing the bill of lading to denote the factor as agent, it must always depend on his pleasure whether his name or that of his principal should appear at the wharfs, at the docks, or at the brokers, or in any of the subsequent documents which were enumerated in this bill.—But the true way of considering the principle of the law on this subject, was to examine what authority was to be inferred from the actual possession and custody of merchandise; for surely it was a solecism in reasoning, to infer a greater right and power in the holder of the mere order or authority to receive the possession, than in the actual possessor. To say that the custody of the various documents, which entitled the holder of them to receive possession of merchandise, should be conclusive evidence of his right to transfer the property, but that the actual possession of the merchandise itself, which was the result and consequence of these documents, and in effect the very consummation of their object, should confer no such right, was a manifest absurdity. It seemed, therefore, that the necessary consequence of this law was to revive the ancient and only rule of property in the first stages of society; namely, possession. Now, it may be worth while to pause for a moment, for the purpose of inquiring to what extent this ancient rule of property might be carried in our present artificial condition. If the possession of personal chattels were in all cases to enable the possessor to make a binding disposition of them, then it followed, that the renter of a ready-furnished house might make a binding pledge of the furniture to a pawnbroker; that a servant intrusted with his master's goods, jewels, or plate, might sell or pawn them to a broker for his own benefit; that a drover, intrusted with a farmer's cattle or sheep for sale in Smithfield (he was properly a factor), might pay his own debts with them, or raise money upon the pledge of them. Nay, why should not a coachmaker pledge or sell a carriage sent to him for repair? Or a stable-keeper, horses standing with him at livery? Or a gentleman, his job carriage and horses? All these, and a thousand other cases, depended on the principle now proposed to be subverted for the benefit of those who had money to lend. It would be more simple and intelligible to declare at once, that possession was in all cases conclusive evidence of title. It was

said, however, that a bill of lading was a negotiable instrument by the custom of merchants, and that there was no reason why it should not circulate like a bill of exchange, the property in which was always transferred by indorsement for a valuable consideration. It was certainly true, that by the general rule a bill of exchange was transferred by indorsement, without reference to the title of the indorser. But this rule was subject to certain exceptions in those cases where the bill was offered or indorsed under such circumstances, as ought reasonably to have excited the suspicion of the party accepting it. If in such cases he took it without inquiry, though he gave the full value for it, the property was not transferred to him. But, in fact, there was no just analogy between a bill of exchange and a bill of lading, any more than between the things they represented. A bill of lading was a contract for the carriage and delivery of goods to the shipper, or his order, or the consignee. It entitled the holder to receive the goods. By the custom of merchants, the power or title to receive the goods might be transferred by indorsement; but the property in the goods could not be transferred by indorsement, except by the true owner. The indorsee of the bill of lading received the same title as the indorser had, and no more. The title to receive possession could not give a better right than the actual possession. A bill of exchange, on the contrary, was the acknowledgment of a debt from the acceptor to the drawer. It represented neither specific goods, nor specific monies, but imported a debt which might be paid in any lawful coin, and which, by the custom of merchants, might be transferred to an indorsee. If that indorsee should be but an agent, he would nevertheless be accountable to his principal only in the character of a debtor, and not for the delivery or safe custody of any specific monies. The receipt of money by an agent for his principal, by the laws of all nations, made him a debtor to his principal, and he might discharge that debt by paying the same amount in any other lawful coin. The currency of a nation, or that which represented the currency, as a bill of exchange, had been deemed of too fugitive a nature to be placed under the same regulations in all respects as other property. As far as he knew, the distinction existed in every civilized country. It was founded upon the very nature of the thing. The loan or deposit of a horse, or other specific chattel, implied a contract to return the same individual article: the loan of a guinea, or of a sum of money, implied no such thing; if it did, what would become of the profits of a banker? The cases of a bill of lading and a bill of exchange would be more parallel, if the bill of exchange were for a particular sealed bag of money; but then it would cease to be a bill of exchange, and become an order for a specific bag of money, not intended to circulate, but to be brought to the true owner in that form.—Before he concluded, he would call the attention of the house to the very peculiar situation in which an owner of goods might find himself placed by this law. By the laws of Russia, and of some other countries, the owner of goods actually shipped, who might have transmitted bills of lading duly signed by the master of the ship to his factor in London for sale, had a right, if he heard of the insolvency of the factor, to compel the master of the ship, before she quitted her final port of departure, to reland the goods upon paying a reasonable compensation for the freight; or to sign fresh bills of lading. What would be

the surprise of such an owner, if he should afterwards accompany his own property to England, to find, that some rich merchant or banker in possession of the first set of bills of lading, pledged by the insolvent factor, not only claimed the goods, but was entitled by the law of England to maintain an action against him the true owner, to recover against him the possession of his own goods? The predicament would be strange, and not very honourable to the commercial code of our country.—For these reasons, he should give the bill his decided negative\*.

Mr. Huskisson, Mr. J. Smith, Mr. T. Wilson, and Mr. Baring, supported the measure, declaring that merchants, bankers, and traders, were all dissatisfied with the existing law.

The bill was read a third time, and passed†.

### *Combination Laws.*

TUESDAY, MARCH 29.—Mr. Huskisson rose, with great regret, to call the attention of the house to the effects of an act of last session, by which the Combination Laws had been repealed, and which now seemed likely to be followed by inconvenience and danger. The parties immediately interested in that proceeding had been subsequently acting under a misconstruction of the intentions of the Legislature; and in the motion with which he meant to conclude this evening, he proposed to correct that misconception, and not to re-enact the combination laws. He had always advocated the principle of allowing every man to dispose of his labour to the best advantage; and he thought that many of the old laws directly violated that principle. He then proceeded to advert to the bringing in of the 5th Geo. IV. c. 95, and to the avowed objects of that bill. He admitted that in principle those objects seemed to be perfectly fair, and equally to affect workmen and their employers; but such was not their practical effects; and as long as the act continued it would keep up between workmen and their employers a spirit, on one side, of alarm, on the other, of distrust. But, to review the course of the proceedings of last session:—A committee was granted, on the motion of the member for Aberdeen, for inquiry into the operation of the old laws, consisting of fifty members; and it undoubtedly examined a vast variety of evidence upon all questions connected with the subject. The result was—not a report to that house, stating the grounds upon which the committee recommended the introduction of their bill; and thereby affording to the public, and to parliament, an account of the motives which induced them to recommend it; they only passed a string of resolutions which involved no such statement whatever (hear, hear). He was himself a member of that committee; he mentioned that circumstance with regret; as, owing to his official avocations, he had not attended it so frequently as he could have wished, and as the importance of its inquiries demanded. The same causes precluded him, when the bill was brought into the house, from considering it with all attention and care in its various stages (hear). He must go further, and express his regret that

such of its enactments which were of a legal nature had not, possibly, been discussed with all the technical knowledge which might have been applied to them by those of his learned friends to whose professional learning the Government ordinarily had recourse. The consequence of all this had been, that some of the provisions of the bill were of a very extraordinary nature. It not only repealed all former statutes relative to combinations and conspiracies of workmen, but it provided that no proceedings should be had at common law, &c., for the future (hear, hear), on account of any such combinations. This was the more curious, inasmuch as the hon. member who introduced the bill had taken occasion to state what was certainly high legal authority—namely, that of the member for Nottingham, that the common law would still be sufficient to prevent injurious combinations. The bill was introduced in this state; read a second time on the 2d of June; and on Saturday the 5th, only four days after the second reading, was read a third time and passed, without any discussion. The measure was therefore hurried on with as much expedition as was usually applied to the most pressing bills. To the hon. gent. himself he imputed no blame for this dispatch. Looking to the advanced period of the session, and the discussion which it had received in the committee, it was natural enough that he should desire it to go speedily through the house. But, since the passing of the act, it had happened to him (Mr. Huskisson) in his official capacity to receive complaints of the conduct of bodies of workmen in various parts of the country. They were, many of them, very painful accounts; and to his rt. hon. friend (Mr. Peel) reports had been forwarded, detailing acts of outrage and violence of the most disgraceful character (hear, hear). Those workmen, who had misconceived the real object of the act, had manifested a disposition to combine against the masters, and a tendency to proceedings destructive of their property and business, which, if left to itself, must terminate in the greatest mischief. Those mischiefs were growing in some districts to so alarming a pitch, that if they were not speedily repressed by the interference of parliament, his rt. hon. friend (Mr. Peel) would ere long have to deal with them in another way, by exerting the civil authority with which he was invested, and which he would not hesitate to exercise for protecting the property and persons of many of the king's subjects from these organized conspiracies. But by a timely inquiry into the subject, parliament might still be enabled to deal with it as a mere question of commercial polity—as a question relating to the rights of the labourers and the rights and property of their employers. While he thus designated the character of these combinations, he hoped he should not be considered as hostile to the right which every man had, generally speaking, to dispose of his labour and skill as he might think proper (hear, hear). He admitted the principle. He had always maintained that labour was the poor man's capital. But, on the other hand, he must as strenuously contend for the perfect freedom of those who were to give employment to that labour (hear, hear). Their's was the property which rendered that labour necessary—by which it was to be employed—by which its employment was to be paid for. If their title to freedom in these matters could not be sustained, the means of employing labour would be destroyed; and the workmen them-

\* This speech is chiefly reprinted from "The Speech of J. Scarlett, Esq. on the Law of Principal and Factor," &c. London Arnold, 1825.

† 6th Geo. IV. c. 94.

selves would be the victims of a delusive attempt to influence and intimidate their employers (hear, hear). He would not enter at length into details, but he would advert to one or two papers that he held in his hand, which pretty clearly developed the views and the proposals of the combined workmen. The first was entitled, "The Articles of Regulation of the Operative Colliers of Lanark and Dumbar-ton." The second of "The Ayrshire Association;" and he could produce a great number of such articles forming as regular a constitution as any of those they daily read of as springing up in every part of the world. The associations had their delegates, their presidents, their committees of management, and every other sort of functionary comprised in the plan of a government (a laugh). One of the regulations provided "that the delegates from all the different works should assemble at one and the same place" on certain stated occasions: thus forming a systematic union of the workmen of different trades, and a delegation from each to one central meeting (hear, hear). Thus there was established, as against the employers, a formal system of delegation—a kind of federal republic; the trades being represented by delegates, forming a sort of Congress (a laugh). Another regulation was to this effect—"Each delegate shall be paid by his own work, excepting only the President—the Secretary—and the Treasurer, who are to be paid out of the general funds. The delegates are elected for six months, and may be re-elected." So here was a tax levied upon each workman for purposes of this mischievous character. But the real meaning and intentions of these societies, were shewn in another article, which declared that "It is the duty of these delegates, first, to point out the masters they dislike (hear, hear); Secondly, to warn such masters"—of what?—"of the danger in which they are placed in consequence of this combination; and, thirdly, to try every thing which prudence might dictate to put them out of the trade."—In such a position "prudence" implied merely that precaution that might prevent the "Union" from being brought within a breach of the law—such as the crime of murder, for example. Why, was it right, or reasonable, that persons engaged in commercial or other pursuits—should thus be kept in constant terror about their interests and property? To shew how regularly organized these bodies were, and how they proposed to exercise the tyranny he complained of, over such masters as might be placed within the sphere of their control, he would allude to the following article:—"These articles may be modified and altered at any meeting of the delegates; and if sanctioned at such meeting by two-thirds of the delegates present, they shall be final. The power of levying money from all the members of the association must be left to the general committee." So that these were not to be voluntary, but compulsory contributions—contributions "levied" upon all the parties to the union. "All laws passed by the delegates will be binding on all whom those delegates represent." Now, one of these laws was, "that there should never be allowed to be any stock of coals in the hands of any of the masters;" because if such stocks were allowed, they would be less dependent on the workmen, and might possess some means of rescuing themselves from the tyranny of the association. Other associations, however, were

governed by regulations, if possible, more extraordinary. One was "that no man coming into any district within the control assumed by the associating parties, should be allowed to work, without being previously amerced 5l., to be applied to the funds of the association" (hear). And another "that any child being permitted to work, should, at ten years old, be reckoned a quarter of a man, and pay a proportionable amercement (laughter); at eighteen, to pay full price." In like manner it was provided, "that any man being called in by any collier to his assistance, should not be at liberty to work under him, unless previously adopted by the society, and unless he should have paid his 5l." Now in this part of the empire, looking to the artificial situation in which this country was placed in regard to the poor laws, that parties, who were liable some day or other to become reversioners on that immense fund, had no right to take measures that had an obvious tendency to throw them on that fund, and so increase the burden which its support imposed upon the country. He would ask whether this 5l., and the subscription of 1s. a week to the association, would not produce to each of the parties, if placed in a saving bank, far more advantageous results? These presidents and members of committees, were doubtless anxious for the enjoyment of the power which such posts would confer upon them? And was it not a principle of human nature, that in all contests for power, the most artful were those who usually obtained their object and seated themselves in places of authority? This consideration rendered it still more necessary to look narrowly into these assemblies. Another rule was, that every measure should undergo discussion, and that the majority should bind the rest—a proper rule in debating societies; but one, under these circumstances, not only inconsistent with the rights of the masters, but with the fair competition of the labourers for employment. That he had not over-stated the facts, the articles from which he had been reading would sufficiently shew: one of them declared, "that no operative, being a member of the association, shall be at liberty to engage himself for any given time or price, without the consent of the committee of management;" a law, which if put in practice generally, would be followed by effects he dared scarcely contemplate. Partially, it had been put in practice. There had been a society formed, called the "Seamen's Union." Their principles and object had been promulgated in the form of a dialogue—not the less interesting be it observed, on that account, to those whom they were addressed to. In this, as in other concerns, the association had come to the determination of not submitting to the authority of any persons whom they had not themselves appointed or approved. It appeared that they who were employed as seamen in the coasting trade, would not put to sea unless the rest of the crew, with the sole exception of the master, were members of their union (hear, hear). It was one of the articles of this union that men thus employed "should do nothing which they had never before been called upon to do as seamen," but which it was quite evident it might be very material on particular emergencies that they should do. Let the house observe the mischiefs that might ensue from such a regulation. He could state a case that had recently occurred, in which a vessel got on a sand-bank at the mouth of the river



It became necessary to have her ballast shifted; but it happened that one of the observations in this dialogue between Tom and Harry, purported that it was unworthy a seaman to assist in shifting ballast. The consequence was, that all the men were in a state of mutiny; and if other craft had not come up to the vessel's assistance, it was impossible to say what consequences might have ensued to her. As soon as the balance had been shifted by the craft's hands, the men returned to their duty, and navigated the vessel as before. But what was the result of their refusal to shift the ballast? The men in the craft who had performed the service claimed salvage. A sum of 200*l.* was awarded to them on account of salvage, which the owners were obliged to pay, the award declaring that the danger of the ship and cargo saved, was occasioned by the adherence of the crew to the rule of the Seamen's Union. If any man could affirm that such principles and conduct were not matter for the interference of Parliament, he would say, that Parliament had better cease protecting any species of property. He was not, however, surprised, when he looked at the wording of the act of last session, and the misconception that might easily be put upon it, that those men should have erroneously supposed their proceedings to be warranted by that act. The 2d section declared, "that journeymen, workmen, and other persons, who shall hereafter enter into any combination to obtain higher rates of wages," and so forth: "or to regulate the mode of carrying on any manufacture, trade, or business, or the management thereof, shall not be subject to any indictment or prosecution for conspiracy, or to any other proceeding or punishment whatever, either under the common or statute law." Would not any body on reading this sentence, suppose it was almost commendable for workmen to combine together to regulate the management of trade. He did not doubt that a great proportion of the associated workmen believed, that so far from violating the law, they had only been pursuing a course conformable with the meaning of the legislature. If then, it were only to set them right, inquiry should be forthwith instituted.—He would next direct attention to the 5th section of the act. That provided, not that any such combination should be subject to legal cognizance, but "that if any person shall hereafter by threats deter a man from his hiring, or engage in any combination or conspiracy, to destroy any machinery, goods, wares, or merchandizes, he shall, upon being convicted of such offence before a magistrate, on the evidence of any two witnesses, be punished with two months' imprisonment" (hear). Now it surely did not require an act of Parliament to declare that to deter a man by threats from his hiring, or to destroy, or combine for the destruction of goods or machinery, was an offence punishable in a certain way, upon conviction. Such acts were already offences by the law of the land, independent of any thing like combination; in so far, at least, the provisions of this act were supererogatory. It was also extraordinary that the act should require the conviction to be on the oath of two witnesses—two witnesses being necessary only in cases of high treason and perjury: and that the punishment should be limited to two months' imprisonment. Here was a law that contemplated certain offences which had in themselves nothing necessarily to do

with the offence of combination. But under this act—"threatening or plotting together for the destruction of machinery," were no longer criminal offences (hear, hear). The act was totally inadequate to put down an evil—not the evil of committing the offences to which the act had so particularly adverted, but the evil of workmen being permitted to plot, and the bold open avowal of their intention to carry such plots into effect, in the manner he had pointed out to the house—a manner most destructive to the property of their employers. If these misguided men could be induced, for one moment, to reflect upon the inevitable consequences of their conduct, they must see that no man would embark his capital under these risks; or submit its application to a control that nobody with capital would for a moment choose to endure. They would perceive the impossibility of their being left at liberty to pursue the career of violence in which they were now proceeding; and that they must soon cease to procure employment for their own subsistence. Capital must desert the districts in which they carried on their measures; and ultimately, unless the evil were arrested, must leave the kingdom itself. He would recommend those who employed workmen, not lightly to submit to such pretensions, and to feel assured, that the magistrates would give them their support. If that should be found inadequate, his *rt. hon.* friend would not fail to afford them such further assistance as might be necessary. In what state the law should be put—whether the last act should be repealed altogether, or not, he was not at present prepared to suggest. He should be sorry to see all the laws formerly in force, renewed; but it might be well worth consideration to ascertain whether something more definite and effectual than the existing statute could not be devised—something that might prevent the evil he had been describing from extending itself any further than the point to which it had already arrived. In the mean time, he felt that in submitting these matters to the house, he was acting conscientiously in the discharge of his public duty (cheers). He had trusted, that after the first ebullition, the good sense of the workmen would have pointed out to them the error of their proceedings. That anticipation he could now no longer indulge. It was, therefore, with the hope of doing justice to both the workmen and their employers—that he now moved "for the appointment of a select committee to inquire into the effect of the act, &c., and to report their opinion as to how far it may be necessary to repeal or amend the said act" (cheers).

Mr. *Hume* having watched with great care the operation of the act, admitted the workmen referred to had very much misconducted themselves. But it should not be forgotten, that since the passing of that act, employment had been increasing, workmen had been more in demand: and it might be fairly argued that these causes had tended to the mischief complained of, more than the repeal of the former laws with respect to combination. The *rt. hon. gent.* stated that the act had gone too far in repealing the old laws, against the fact of combination: he thought him mistaken. Formerly, if two or three persons were found together with papers, they were liable to imprisonment, and many had suffered punishment for being so found. He would call upon the *rt. hon. gent.* to draw a distinction between two cases. There might be meetings of

persons combining peaceably for proper purposes, and there might be meetings for disorderly purposes. The committee which sat on this subject, drew this distinction, that it might be lawful for men and masters to meet together to consult upon the rate of wages; but if three masters met to settle wages, or three men, they might be prosecuted. This was more than fair to the masters, when it was remembered, that out of the many cases of conspiracy against masters none were proved, from the difficulty of procuring evidence; while the convictions of the men were innumerable. The punishment inflicted for the offence of combining by 28 and 39 Geo. III., was imprisonment for two months. The question was, whether this or any other punishment was necessary, unless in cases where the men violently interfered with the property of their masters or fellow workmen. His opinion undoubtedly was, that both parties should be free to make what bargains, and to act in what manner, they should deem best for their own interest. He thought the law, as it stood at present, was as strong as it need be, and he should therefore oppose any increase of its severity upon one of the parties, while the other was left untouched. He was sorry to say that the Union Societies in Dublin had been productive of great evil; many persons had actually been murdered; but then he was happy to observe that although these Union Societies existed also in England, they were not attended with any of the dreadful evils which accompanied them in Ireland. In Dublin, if the carriers were offended with their masters, they applied to the carpenters, and marked out the objects of their censure; if the carpenters were offended with theirs, they applied to the shoemakers, or to some other trade, and then the individual, who was afterwards assaulted, could not bring any of the offenders to justice, for they were all unknown to him. These things, however, would never have been heard of but for the very defective state of the police of Dublin. To repress such a system, no law could be too severe; but his objection to the combination law was, that it punished the whole class for the offence of a few of its members (hear). He admitted that the seamen had acted with extreme impropriety; but they were not the only persons who had acted with imprudence and impropriety. In some cases the conduct of the masters was worse than that of the men. The first act of combination in Glasgow was the act of the masters. A few men of Mr. Dunlop's manufactory disagreeing with their masters, he believed, upon some point of wages, they declined to continue working for him. The masters immediately combined; for they called a meeting, at which the subject was discussed, and at which they came to a resolution to make a stand against the men. They published a notice, that "if the men of Mr. Dunlop's factory did not return to their work on or before a certain morning, they would discharge from their employ all the men, amounting in number to ten thousand, until Mr. Dunlop's men returned." The workmen who had gone away disclaimed acting in concert with any others, and said, 'Do not punish them for what we have done!' but their disclaimer was not attended to, and all the men in Glasgow of the same trade were actually turned out of their employment. Now he would ask, whether the mere declining on the part of the men to work for their masters was to be put in comparison

with the enormity of that act of the masters? But that was not all. The property of the masters enabled them to get the better of the men, who were at last obliged to come in unconditionally. When they did so, the masters severely punished their resistance by deducting the loss they had sustained by this cessation of labour from the amount of the men's wages, the men being obliged to pay at the rate of ten per cent. per week, until the masters declared themselves satisfied. He asked whether the refusal of the seamen to sail might not have proceeded from some act performed by their masters—and whether it were comparable in mischief to the conduct of the Glasgow masters? Combinations were carried on by both parties; but the stronger of these were the masters. A person employing a great number of men in the tin trade in London, had occasion to find fault with one of his men for drinking, and he finally discharged him. He was told by the man, that if he did so all the others would leave him; but he persevered, and the consequence was, that all the men in the factory, amounting to 74, quitted him on the following morning. This gentleman put an advertisement into the papers, in which he stated that he wanted men, but that he would not engage any who belonged to the Union. His advertisement was answered, and he gradually filled his factory with men not connected with the Society. In this instance, therefore, the master was again triumphant. This case, too, proceeded on the principle which had been ascribed to the seamen; and that system was common with the masters. It was a regulation of the masters in many places, that any person who quitted one factory, should not be employed in another; and that object was effected by the masters sending round lists to each other, of the men who, from whatever causes, had quitted their employment; so that no man who happened to differ with his master, could succeed in obtaining employment elsewhere. If that were not a combination—an odious combination, among the masters, he did not know what could deserve the name (hear). For his own part he disapproved of such proceedings, whether adopted by masters or men. In his opinion, both sides had gone far beyond what he hoped they would have done, after the repeal of the combination laws. In making these observations, he wished to show that the fault in these cases, did not rest alone with the journeymen. This being admitted, there was no one who more heartily concurred with the *rt. hon. gent.* than he did, in the propriety of punishing any measures of intimidation, whether adopted by masters or men. If the enactment were fair and equitable it would be received with pleasure by both parties. But let not the house be too severe. The severe law against combination amongst colliers, was entirely inefficient. The Lord Advocate of Scotland expressed his readiness to try whether it would not be better to remove it. This proved that strong measures were not the best for putting down an evil of this description. Much depended on the conduct of masters towards their men; and especially on the way in which they treated their demands. If those demands were reasonable, they ought to be complied with; if unreasonable, the masters should make a firm stand, and punish every one who had recourse to violence, or intimidation.

Mr. Peel, after commenting on the precipita-

tion with which the last act had been passed, ceased to observe that the 10th resolution of the committee set forth, "that it was necessary, in removing the combination laws, that measures should be taken to prevent the workmen from having recourse to threats, intimidation, or other improper means, for the purpose of interfering with the perfect freedom of trade or of compelling masters from the employment of their capital in any way they thought best." Now what was the security devised for carrying that resolution into effect? It was that a party convicted on the evidence of two witnesses, of having used threats or violence, should be punishable by two months imprisonment. This enactment enabled the guilty to escape; for what was said or done to intimidate, was generally in the presence only of the master. And why should two witnesses be required? He really could not tell; but that was a feature of this law which loudly called for alteration. The great evil of this system, so injurious to the freedom of trade, was the plan of delegation. At this moment a committee of delegates was sitting in the Thames. These persons were to find employment for those who were out of work—they were, in fact, to dictate to the master-shipwrights as to whom they should or should not employ. On one occasion four or five men went to the yard of a shipwright, and applied for work. The superintendent told them, that his master had hands enough already; and the parties were desired to quit the yard. They answered, that they were sent by the committee; and that employment must be found for them. What was the consequence? Why, because the shipwright refused to employ these men, all the other men, to the number of some hundreds, quitted the yard (hear, hear). The same system was carried on in many other parts of the country. He had received communications from various places, and he found that in many instances where artificers were receiving from five to six shillings a-day, they were not satisfied to proceed with their work, but set about stipulating with their masters, as to the number of apprentices they should entertain—as to the employment of old and young men—and a variety of other matters with which they had nothing to do. Such a system tended to bring back that worst of all doctrines, a maximum of wages—and was, in fact, most injurious to the workmen themselves (hear, hear). The able, active, and intelligent workmen had, unquestionably, a right to receive more than the old and incompetent; but such a system would place old and young, skilful and incompetent, on the same level. The hon. gent. (Mr. Hume) wished to show that all the blame in cases of combination did not rest with the men. Now he did not wish to argue that point. He did not want to establish the masters against the men, or the men against the masters. It was no satisfaction to him to say that the fault lay in this quarter or in that. If the masters behaved ill, let there be a law which should apply to them; and if the men conducted themselves improperly, let them be amenable also (hear). If the dangerous effects of conspiracy, the consequences which the continuance of such an evil must have on the interests of those who were most forward in support of the system were pointed out, such an exposition would have a strong effect on those deluded men, and would, it was to be hoped, put a stop to a course of proceeding which struck at the root of all free-

dom of trade (hear). It appeared from the evidence of a gentleman who had been examined before the committee, that in the course of the last three years, no less than ten lives were lost in Dublin, in consequence of transactions connected with the combinations of trades; and not a single person concerned in those murders had been brought to justice\* (hear). But how was this secrecy preserved? They had been told by the member for Aberdeen. If the carpenters turned out, they employed the joiners to execute their vengeance; and if the joiners turned out, they called on the carpenters for assistance. By this course of proceeding, the perpetrators of murders and assaults were not recognized. It was horrible to think, that, by this union of trades, as it was called, persons who had committed no offence whatever were visited with the penalty of death (hear). One regulation, it appeared, was, that no master should have more than twelve apprentices; and another regulated the number of machines which a manufacturer should be allowed to use. He would relate the case of Mr. Robinson, an eminent iron-master, in the sister country. He had procured an engine, similar to that used in Birmingham, for manufacturing nails. The consequence was, that a meeting of 3,000 persons of different trades, took place, and they declared, that if Mr. Robinson persisted in manufacturing those nails, they would drive them crooked (a laugh). The work was given up; and Mr. Robinson was thrown back on Birmingham for a supply of nails. But for the misconduct of those people, the nails would have been manufactured in Ireland, and employment would have been afforded for themselves and families. He was not anxious to have the old laws revived; but he wished to see a remedy provided against the abominable system of delegation. Some persons wished, on occasions of insubordination amongst workmen, to have immediate recourse to the military power. This, he conceived, would be very improper, except in cases of actual violence. The only system that could be acted on under the existing law, was to turn away refractory workmen, and leave them to come to their senses. But this was not without danger. The case of a tin-man had been instanced, whose men, to the number of seventy, had left him, and who had refused to take any of them back. Now, he must say, it was twenty thousand chances to one that the life of that individual would not be safe in the streets after night-fall. The apprehensions of masters who were really afraid to act, strongly claimed the attention of the legislature; and he hoped that, having looked into the whole subject, an unanimous feeling would pervade the house to adopt some efficient measure to check the evil, which was at present only in progress, but which, if suffered to arrive at maturity, would produce more disastrous effects than any he had witnessed since he entered into public life.

Mr. H. Gurney defended the conduct of the last committee; and contended that the combination laws, so far from removing the evils attendant on combination, in reality, greatly aggravated them.

Sir M. W. Ridley said, that some of the workmen believed that Mr. Hume had repealed all the combination laws; and, therefore, that they

\* It was afterwards stated (April 21) that two and not ten lives had been lost.

might just do as they pleased. The house was told, that the masters might easily put down combination; because, if they resisted, and stood firm, the public would stand with them. That was very true; but it should be recollected, that, in the mean time, their business went to ruin. He eulogized the miners and colliers of the north of England, and sat down by stating that he should vote for the committee.

Mr. C. Grant regretted that so much had been said of the last committee, for it would appear as if it were intended to cast some reflection on their decision (no, no, from Mr. Huskisson). He was one of the fifty members of whom that committee was composed, but he believed not more than half that number attended it. For his own part, after giving due consideration and inquiry as to the operation of the old laws, he conscientiously felt that their abolition would be advantageous. No one would palliate the excesses which had been committed since those laws were repealed; but he would contend, that the system which prevailed before did not produce tranquillity. It was, in fact, a system of terror; and it was proved before the committee that evils existed under those laws which it was necessary to put down. Their object had been to restore the proper feelings between master and servant. He was sorry to find that those kindly feelings did not exist between the parties which ought to characterize them. But he must say, that it was not the repeal of those laws which prevented their existence (hear). He was prepared to expect some re-action of feeling when the combination laws were removed—he thought that some effervescence might arise: but he certainly did not expect that those to whom considerable advantages were given, and for the protection of whom the new law was framed, would have acted as they had done. It was said, that the new act had revoked the common law on the subject of combination. He could not speak very scientifically on this question; but the result of his consideration was, that the act did not, generally speaking, put an end to the common law, though it did in one or two instances. This act surely did not exempt sailors who refused to proceed with their vessel from the operation of the common law. He believed that a seaman who refused to proceed with his ship, after having agreed to make the voyage, was utterly out of the provision of this act, and would be just as amenable to the law as at any other period (hear, hear). It was of great importance that inquiry should be made as to the effects produced by the act of the member for Aberdeen. Because, while they attempted to do justice to a particular class, they should not seem to lend themselves to the abuses which those individuals might commit. In all great measures of legislation it was impossible to arrive at once at perfection; and some evils must always be expected to ensue on the abolition of a long-existing system of injustice. He should, therefore, support the motion.

Mr. Lambton said that it was clear that the measure of his hon. friend had not answered the purpose which he had in view; and therefore he considered that the rt. hon. gent. was doing great service to the country by directing the attention of parliament to the subject.

Mr. Huskisson wished to say a few words in explanation before the question was put. He

had stated no objection to the decision of the last committee; on the contrary, he highly approved of some of the resolutions, and especially the tenth. What he affirmed was, that the act growing out of those resolutions imperfectly executed the intentions of the committee, and in some cases had even produced a prejudicial effect. There was another point on which he was anxious not to be misunderstood, and desired that what he said upon it should go forth to the country. The hon. member for Aberdeen had called upon him not to visit the faults of a few workmen of a certain description upon the whole community, and had told them that there were certain classes that had not been guilty of excess. To that he entirely subscribed, and begged to disclaim all intention of proceeding with severity. His object was not to act by penal laws, but to attract the notice of the committee now to be appointed, to the interests of commerce, as connected with the relation between master and workman. So far from wishing to suggest severity, even towards those who had acted culpably, and been betrayed into impropriety of conduct, he was desirous of saving them from the consequences of their own delusion, and to shew them at once both their duty and their interest. He was quite as much a friend to the men as to the masters; and declared his satisfaction that gentlemen of all political opinions came to the consideration of this interesting question, without the slightest tinge of party feelings (hear, hear).

The motion was then agreed to, and the committee appointed.

FRIDAY, APRIL 15.—Mr. Hume presented a petition from the mariners of North and South Shields, complaining of combinations among the ship-owners, and denying the insubordination which had been attributed to them in the house. They alleged that the union among seamen was only for charitable purposes, and to counteract the oppressive measures of their employers.

Mr. Lambton said, that the union was not designed for charitable purposes only. One of the regulations of the union forbade any mariner to serve in a ship with any other mariner who was not a member of the union. A late instance would illustrate its effect. A ship arrived at Shields from the west of England, and the union required the owners to dismiss all the men on board, because they were not of the union. These poor fellows were left to beg their way back again on foot into the west of England, to make way for the mariners of the union. Another vessel arrived from Whitby, and it was with some difficulty that the lives of the men could be secured for a night or two from the violence with which they were threatened. This was a state in which parliament would not readily consent to place the property of any man.

Mr. Hume said that the magistrates had power to suppress any violence, that being clearly contrary to law.

The petition was referred to the committee, with another from the shipwrights on the river Thames.

TUESDAY, MAY 3.—Mr. Cartwright rose to present a petition from the master boot and shoemakers of Northampton, complaining of the insubordination of the workmen. They stated that, some weeks ago, the workmen

struck for an advance, and remained out of employment for five weeks. The masters then complied, and all went on satisfactorily for a short time. Since that arrangement, however, the journeymen had struck for a further advance. The petitioners further stated, that if this system continued, they must, in the end, give up their contracts for the army and navy. They attributed their present situation to the repeal of the combination laws. The occasion, he observed, was extremely pressing—dispatch was necessary—and he thought something ought to be done in the present session.

Mr. *Huskinson* said, that the committee was pursuing their labours with proper vigilance, and would, he trusted, report to the house without any great delay (hear). He admitted that it was a subject which pressed for decision. It was not his wish to interfere with the meetings of individuals, so far as related to the amount of their own wages. Under circumstances of a greater demand for labour, or a greater expense incurred in the purchase of provisions, they might reasonably ask for larger wages; but they did not stop here. They combined to dictate to their masters the mode in which they should conduct their business, to regulate the hours of labour, and the number of apprentices—they combined for the purpose of preventing certain individuals from working—to enforce the principle that wages should be paid alike to every man, whether he were a good workman or a bad one—to prevent individuals who wished to work from getting employment unless under their own regulations (hear). He believed that at the present moment a great part of the woollen manufacturers were standing still, from combinations of this sort. He did not wish to resort to the old law; but it was undoubtedly necessary to adopt some efficient means for the equal protection of the master and the workman (hear).

Lord *Althorp* said, that in the law of last session it had been forgotten to define clearly what should be the nature of those threats, held out either to masters or to journeymen, that would enable the parties who conceived themselves aggrieved to prosecute. Some alteration should be made to secure from the effects of threats those workmen who were willing to labour, but who were prevented by an influence of which the present law did not take cognizance.

Mr. *E. Ellice* was happy to find that it was not intended to re-enact the combination laws; and he hoped that whatever measure might be proposed, the interests of the workmen would be well weighed and protected, and that they would not, as before, be exposed to the oppression of the masters (hear).

General *Gaseoyne* said, he was not quite satisfied with the statement of the rt. hon. gent. He said that no intention of renewing the combination laws existed; but a rumour had gone forth, that it was the intention of the committee to interfere with the "benefit societies." In many of the petitions which had been presented against the re-enactment of the old laws, the petitioners denied that they had taken any part in the illegal combinations that had been spoken of, and they very fairly called upon the house not to visit the errors of the few upon the many. Now was it not fair and justifiable, if men thought that they were entitled to larger wages than they received, to unite for the purpose of accomplishing their object, provided they com-

mitted no act of outrage or violence (hear, hear)? Thirty years since, so unjust did he think the system, that he brought in a bill to prevent combinations amongst the masters. In the town of Liverpool there was a body of shipwrights, blockmakers, ropemakers, &c. amounting to 12,000 persons; and he believed it was truly stated in their petition, that they knew not a single instance among them which called for the interference of that house in the re-enactment of those laws. He hoped that they were not to be re-enacted; but he would call on the rt. hon. gent. further to state, whether it was intended to introduce a measure that would operate in any way on the funds of the benefit societies? Those funds were appropriated to the support of those who subscribed to them in time of sickness; and in many instances they were appropriated to the purchase of tools for workmen, whose tools were not furnished by their employers, and whose finances did not enable them to supply themselves. The Shipwrights' Society, at Liverpool, had existed for thirty-three years. They were building almshouses; and scarcely a member of that society had applied for parochial relief. When so much good might be effected by such institutions, in the reduction of the poor rates, he trusted that due care would be taken not to interfere with them unnecessarily.

Mr. *Maberly* said, that the working classes had a right to ask for wages in proportion as the price of provisions was enhanced, or as there was a greater demand for labour; but they had no right to combine for the purpose of dictating to an employer how he should select his workmen, or what number of apprentices he might employ.

Mr. *G. Philips* said, that combination was injurious on both sides; but the continuance of combination was, in his opinion, much more likely on the part of the workmen than on that of the masters. There was no motive for separation on the part of the former, but the various interests of the latter presented many motives for separation.

Mr. *Hume* said, he believed what the house wanted was impartial information on this subject. They had as yet received tales from one party, and from one party only; and he would take upon himself to say, that so far as the committee had gone, every inquiry tended to do away with the impression which had been previously made on that house. No excesses had been committed, except in Dublin, and there, instead of twenty, as had been stated, only two lives were lost. It appeared that since the last act, combinations amongst workmen had changed their character, and that instead of outrage and violence, they were carried on with peace and order. He wished to see the workmen act properly, and therefore he condemned, in the strongest terms, their interference with apprentices, as being contrary to the principle of freedom which they themselves demanded, and had gained. Much had been said about the combination of the men; but was a combination amongst them ever heard of, without there being also a combination amongst the masters? Would not any landholder in that house, who was selling his wheat for 45s. a quarter, endeavour, if he could, to procure 50s. for it? Nay, would he not keep his wheat back, if he thought he was thereby likely to get 90s. a quarter for it? Why, then, should not the man who only received 2s. 6d. a-day keep back, if he thought

by so doing that he could procure in 6d. a-day? If a contrary doctrine were maintained, they might pass laws to raise the price of corn, and to lower the rate of wages (hear). On behalf of the workmen, he called on the house to come to no hasty decision on alleged acts of outrage and violence. If acts of violence had been committed, let them be proved. Let not those individuals, on mere assertion, be deprived of that right which they now enjoyed, and which they ought to enjoy under the law.

Sir M. W. Ridley wished the labouring classes to get as much as they could, by proper means. It was fair that labour should have its just reward; but it was another thing, if the workmen proceeded by threats and intimidation. When they adopted that system, it was high time for the house to interfere (hear, hear). He would add, however, that those who demanded a quick decision on this subject should recollect that it was necessary, after they had heard those who were complaining, that they should hear the workmen in their own behalf (hear, hear).

Lord A. Hamilton was surprised when gentlemen declared that they had heard of no violence. One man was now at the point of death, in consequence of the beating he received from the colliers of Stirling, for no other reason but because he ventured, in his own right, to take lower wages than the members of the combination thought fit to accept. He could also state that a weaver of Glasgow had been sentenced to a public whipping, and to transportation for life, for an attempt at assassination. The learned judge before whom he was tried stated, that if Lord Ellenborough's act had extended to Scotland, he should have been sentenced to death. He was a friend to the workmen, and he now spoke in behalf of that large body of individuals, who had taken, or who were ready to take, less wages than the associations thought they should. He called on the house and the country to protect them in the right which was denied them by the combined workmen—of appreciating what their labour was worth (hear).

Mr. Baring said, that the consequence of the repeal of the combination laws was, that every description of trade had been dictated to in the most arbitrary manner; and, if proper measures were not adopted—if this system of combination were still suffered to extend—the consequence must be, that it would itself effectually destroy the manufacturing interest of the country.

The petition was then laid upon the table.

WEDNESDAY, MAY 4.—Sir M. W. Ridley presented a petition, numerously signed by shipwrights and mariners of Kingston-upon-Hull, against the combination laws, and praying that the petitioners might be heard before the committee.

Mr. Sykes heartily concurred in the prayer of these petitioners. It would, indeed, be great injustice, if the committee now taking a great deal of evidence from the masters, should take none from their journeymen (hear). At present, these shipwrights and seamen were in a state of the most cruel alarm. They complained of the high price of corn and provisions; at the same time that they expressed their alarm at a supposed intention of Parliament to fix the rate of their wages, so that it would be impossible for them to supply themselves with corn.

Gen. Gascoyne had seven petitions to present

to the same effect. The petitioners amongst other things complained of the necessity which the high price of corn imposed upon them of demanding proportionate wages for their labour; and expressed an apprehension that Parliament intended to examine into their funds.

Mr. Denman presented a similar petition from the mechanics of the town of Walsall. He begged to call attention to that part of the petition in which the petitioners stated that they believed many of the allegations made before the committee now sitting were not true; and requested, even supposing that they were true, that the errors of the few should not be visited on the many. He conceived that a more just request could not be referred to parliament. On a former occasion he had stated, that the common law was sufficient to punish any substantive offence committed by the workmen against their employers. In the act of last session there was only one clause as to which he entertained any doubt: and that was the clause relative to summary convictions. He had formerly asked his hon. friend (Mr. Hume) a question on this point, and he stated, that it was the unanimous wish, both of the masters and the workmen, that this power should be granted. Now, he thought the house should have paused, notwithstanding the wish of these parties. When it was necessary to call for the interposition of the law at all, it should be through the medium of a judge and jury, according to the course pursued in the ordinary administration of justice. Another provision of this law was, that when a summary decision took place, the individual convicted should not be liable to punishment for the same offence under the enactments of any other law, or by the common law. But a workman committing an offence might bring it before a magistrate by means of a friendly informer. If he refused to give judgment on the case, great evil and confusion must follow; and if he convicted the accused party, that party would receive a slight punishment, for perhaps a very great offence. It was a mistake to suppose, as the rt. hon. gent. (Mr. Peel) had done, that the act provided that offences could only be proved by two or more witnesses; that only related to summary convictions: for if the offence were prosecuted at common law, it must be supported by witnesses in the ordinary way. He meant to give no opinion with regard to the committee up stairs, but he entered his protest against the eagerness with which some gentlemen seemed to seize on any statements that were prejudicial to the character of the workmen. Those individuals had a right, and the petitioners, in this instance, prayed that they might be heard, before any measure affecting their interests was determined on.

Mr. Hume said that the proposition for summary process did not originate with him. But he must say, that with the exception of one individual, the whole committee was desirous that provision should be made in the bill for granting this summary power; and that with the express sanction and desire of the workmen.

Mr. Peel observed, that he certainly never inferred from what the learned gent. (Mr. Denman) had stated, that it was his opinion that the common law was sufficient for punishing any offence which the workmen might commit in endeavouring to control their masters. On that point, in his opinion, a very serious doubt

might be entertained, and this was one reason for coming to a clear understanding on the question. The second clause of the act of last session enacted, that journeymen, or other persons, combining for purposes therein named, "shall not be subject or liable to any indictment for conspiracy, or any other punishment whatever, under the common or statute law." What, then, became of the position that the common law was sufficient to meet and to punish those combinations? The common law, as well as the statute law, was here repealed, without any modification.

Mr. *Scarlett* said, when his hon. friend (Mr. Hume) consulted him on this subject, he stated it to be his opinion, and to that opinion he still adhered, that the common law provided sufficiently for putting down combination, properly so called. But when he afterwards looked at the act which had been passed last session, he found that the common law was repealed; for he saw nothing there to which it could be applied, except in cases where a breach of the peace had been committed. There alone could the common law be brought into action. They ought either to restore the common law to its original vigour, or make some specific provision to meet this evil.

Mr. *Baring* repeated his opinion that combinations had been increased by the late act. He went on to say that many of the workmen who had been examined before the committee, were most respectable persons. More prudence, sense, and good conduct, he never saw displayed in his life than was manifested by them; and the manner in which they gave their evidence proved how far information had made its way amongst that class of the community. But they seemed to think it a praiseworthy thing to join in those combined bodies, and to direct their masters how to carry on their trade. The common law, it appeared, could only be resorted to where actual violence was committed; but the house must be aware, that many things might be done, short of violence, that were extremely injurious. Several of the witnesses were examined as to the means they employed for preventing men from working where any circumstance obnoxious to their displeasure existed. They were asked, "When you struck, did you use any violence against those who continued to work?" They answered, "No." But when pressed, the answer was, "We made their situations uncomfortable." This was elicited from them, and certainly such a course of proceeding was a great grievance to the persons thus treated.

Mr. *J. Williams* did not believe the statement that there was an increase of combination since the repeal of the laws. When hon. gentl. spoke of an increase of combination, they must have alluded to combination connected with acts of violence; because the ordinary system of combination—the carrying on of correspondence between different bodies of workmen—had long been prevalent throughout the country. If that were the state of the case, then, the law as altered left the power of punishing, under such circumstances, precisely as it was before the act of last session was passed. The evil must be cured by some good understanding between the men and the masters—by the adoption of good conduct and temper by both the parties (hear, hear). He had some experience in matters of summary jurisdiction in the country where combinations most pre-

vailed, and his solemn belief was, that the habit of running to the magistrate on the heat of the occasion, where the act complained of was not of importance sufficient to allow the party to go into a court of justice, had not only done no good, but had produced much mischief, by increasing the irritation between the parties.

Mr. *Scarlett*, in explanation, agreed that none of the statutes, giving summary remedies, had answered the purpose for which they were intended.—The petition was then referred to the committee.

FRIDAY, MAY 6.—Mr. *Baring* presented a petition from about two dozen of the workmen employed in the service of Messrs. Young and Curling, of Limehouse. The petitioners were ship caulkers, and set forth that they had been long in the employ of Messrs. Young and Curling; that they were satisfied with their wages and treatment; that they did not belong to the Thames Union, or any other such association; that on that account they were exposed to great ill-will and insult from other journeymen who were members of such societies; that they began to apprehend personal ill-usage when they walked in the streets, by reason of the premises; and they therefore prayed that some measure might be devised on this subject, which should protect them from such molestation in future.

MONDAY, MAY 9.—Mr. *Alderman Thompson* presented a petition from certain shipwrights and sawyers of London, praying for protection against their fellow-workmen. The petitioners stated, that in consequence of their not belonging to the Union, they were exposed to insults and annoyance from the members of that society.—Referred to the committee.

THURSDAY, JUNE 16.—Mr. *Wallace* brought up the report of the committee appointed to inquire into the effect of the act passed last session for the repeal of the combination laws. The committee had not recommended a renewal of the old laws, but proposed other means of checking the combinations which prevailed throughout the country, and they also called for the repeal of the act of last session. He thought it fair to state, on the part of the committee, that the different cases brought before them were minutely investigated. Nothing like partiality was shown; and in point of truth, the number of workmen examined was greater than the number of persons who complained of them.

Mr. *Hume* said, that no evidence had been given by any workmen of Dublin and Glasgow, the two principal towns interested in these proceedings. With respect to the latter city, the committee had acted on the statements of some one or two manufacturers, and a few police-officers. The individuals respecting whom that evidence was given, had petitioned the house, and that petition had been referred to the committee—but the committee had not gone into the examination. Petitions had been presented from Nottingham, signed by 9,000 operatives; from Sheffield, by 10,000; and from Birmingham, by 15,000. The petitioners stated, that since the alteration of the law, the most beneficial results had been experienced, and they all prayed that sufficient time should be given to enable the country to form a proper estimate of its real operation. A deputation from Sheffield

had come up to town, but they were told to go back, and that if their evidence were wanted, they would be sent for. None had been heard except the carpenters from Shields, and some seamen, who had presented themselves to the committee, and could not with propriety be refused. In his opinion, the proceeding of the committee was highly objectionable in not allowing the workmen's evidence as to the consequence of the repeal of the old laws. But it appeared that little evidence was sought on that head. The committee examined into the mere present state of the working classes; what combinations existed, and to what extent they were carried. This was not, however, the idea on which the house had originally proceeded. The duty of the committee was, to inquire whether combinations were more general now than before the repeal of the laws—to examine into their nature—and to hear the statements of the operatives, as well as of the masters. With respect to the Glasgow operatives, it was surprising that no evidence was received from that body, after it had been asserted that they had suborned men to commit assassination; whereas the operatives would be able to prove that the act complained of had been done, not by the general body, but by a few men who were in a state of starvation, from a combination of the masters, relative to Mr. Dunlop's business, which he had before related to the house—a combination by which 10,000 men were kept out of work for nearly five months, until the community at large called out "shame." Here was a large body of persons charged with murder, and subornation of murder, not only without being heard in their defence, but having actually been refused a hearing. He therefore protested against this imperfect report.

Mr. Peel deprecated discussion till the report and bill were printed. He must, however, in justice to the committee, deny the statement of the hon. gent. as to the examination of witnesses. There was no refusal to examine any man whose evidence was necessary to the purpose which the committee assembled to effect—namely, the introduction of some measure to check the confusion which at present prevailed. If they had examined every man who presented himself, and put off any remedial measure until the inquiry was closed, the object they had in view would have been frustrated.

Mr. Wallace then moved for leave to bring in a bill "to repeal an act of the last session for the regulation of workmen, and to introduce other provisions in lieu thereof."—Leave given.

MONDAY, JUNE 27.—Mr. Wallace moved the order of the day for the house to resolve itself into a committee on this bill. He would briefly state the ground on which the present measure was founded. The statement made on a former night (by Mr. Huskisson) though not substantiated in all its particulars, yet was so far borne out, as to the general nature and effect of the combinations that existed throughout the country, from what had come to light, that some farther intervention of parliament was absolutely necessary. To form a practical opinion on the subject, it was necessary to examine the actual state of the combinations; to see if any alteration had taken place in the conduct of the parties, in consequence of the repeal of those laws, which it was confidently asserted had given rise to the combinations that formerly existed—and also to inquire whether the character of those combinations was in any degree soft-

tened or mitigated. All those points had been considered, and it appeared that the character of those combinations were altered—that they were greater in extent, but more open in their proceedings than they used to be. No less than thirteen cases of combination were stated to the committee, and of these seven had grown up since its sitting. With respect to the character of those combinations, they had found it in some parts aggravated, in others much the same as heretofore. They were all under the superintendence of committees, composed of leading members in the trade. The manner in which they issued their orders, and the promptitude with which those orders were obeyed, sufficiently showed their influence. He knew that in the estimation of many gentlemen, these particulars were considered as unimportant. He was of a different opinion. It was said by Lord Bacon that in matters of council, there was this difference between a square and a long table; that whereas at a square one an equality of opinions might be expected; at the long one those at the upper end were likely to have it all their own way. This was the case in those combination meetings, where measures were generally carried by the worst and most violent characters. Not content with settling how and when the men should work, and for what wages, they had actually pointed out in some instances obnoxious masters for assassination. He had not overstated the case: he had confined himself to the evidence. In Ireland it was stated, that 70 or 80 persons had been wounded. Of these 30 or 40 had their skulls fractured; and two had been actually murdered, in the open day, without the possibility of bringing the murderers to justice. In Scotland, a still more organized system prevailed, and he begged leave to call attention to the oath which was said to be taken by persons engaged in combinations. It had been produced before the committee by a respectable manufacturer, and ran thus:

"I, A. B., do voluntarily swear, in the awful presence of Almighty God, and before these witnesses, that I will execute with zeal and alacrity, as far as in me lies, every task or injunction which the majority of my brethren shall impose upon me in furtherance of our common welfare; as the chastisement of knoaks, the assassination of oppressive and tyrannical masters, or the demolition of shops that shall be deemed incorrigible, and also that I will cheerfully contribute to the support of such of my brethren as shall lose their work in consequence of their exertions against tyranny, or renounce it in resistance to a reduction of wages; and I do further swear, that I will never divulge the above obligation, unless I shall have been duly authorised and appointed to administer the same to persons making application for admission, or to persons constrained to become members of our fraternity."

Could any thing be more dreadful than a combination in which vast numbers of persons were bound together by a tie like this? He would refer the house to the confession of John Kean, which stated that the combination committee had resolved to take the lives of four of the workmen, Wright, Dunlop, Lindsay, and Ewens, as soon as possible. This confession had been made by a man, himself convicted of shooting a workman of the name of Graham, who had not complied with the wishes of the committee. He believed that the same motives were common to all the committees, and that they all pursued the same course. The most innocent persons might be led, step by step, to become participators in acts of the most atrocious description, and from which, if left to their unbiased feelings, they would have recoiled with abhorrence.



It was very well known that to ensure success to the designs of a committee, numbers were in the first place necessary. To gain these, every inducement was put in practice. First of all, persuasion and the milder plans were tried; then money was offered to such as wanted it—then warnings, threats, and intimidation; and if these were found to be insufficient, then murder, or an attempt to murder, was resorted to, as had been seen in some recent instances. All these means had been lately practised. The shipwrights in the neighbourhood of London had quietly left their work, and withdrawn from the employment of certain masters. The shipwrights of Bristol had gone a little farther, and had resorted to threats. The coopers of London had made all the workmen who would not obey the rules they laid down, uncomfortable. It was difficult to say exactly what they meant by "uncomfortable;" but its effects were easily understood. The consequence was, that all the workmen who had been made uncomfortable became members of the association. The weavers of Yorkshire had proceeded as far as threats, and the workmen in Scotland had gone even greater lengths. An instance occurred a few days ago, of a man who had struck, with others, and who had received a small sum from the society; afterwards, conceiving that he had permission to return to work, he had done so, and was called to account by the society, and had his ears cut off. In Scotland there had been more than one attempt to murder, and in Ireland men had actually been murdered. For these reasons it was that he wished to see the law relating to combinations made stronger, that the people might be guarded against the possibility of running into excesses, which in the end must be dangerous to themselves. He was no friend to the principle of the laws which had been repealed; he did not wish to see them re-enacted, but he wished that the common law as it stood before should be again brought into force. This, he believed, would be quite sufficient for the purpose, and he conceived that in saying this he spoke the general opinion of the house. The principle of the bill now before the house was to make all associations illegal, excepting those for the purpose of settling wages. The bill of last year not only protected combinations for the purpose of raising wages, but extended to those for regulating the work, and the mode of carrying on manufactures. He did not believe these permissions necessary, and in many cases they were dangerous. With regard to the wording of the new bill, he thought it was safer to point out the description of association which was legal than to specify all which were illegal, in doing which there was great danger either of putting in or leaving out too much. The bill gave a summary jurisdiction to magistrates; it did away with the necessity of a previous information, and permitted a conviction upon the evidence of one witness only. These were its principal features. He was aware it would disappoint many persons; for there were some who, listening only to their fears, thought that the utmost vengeance of parliament should be called down upon these combinations. If any future necessity should arise, it would not be difficult to make the laws more strict.—If it should happen that the consumers were inconvenienced in consequence of these combinations, Government must take care to provide supplies at a reasonable rate, by admitting the productions of other

countries. He felt all the disadvantages which such a measure must bring with it, but he felt also, that great as they were it was better to endure them than to submit to the tyranny of the workmen.

Mr. *Robertson* declared that the repeal of the combination laws would, in his view, be attended with the most mischievous consequences to the workmen themselves. Being enabled to extort from the masters any rate of wages they pleased, they would pass one half of their week in idleness, and contract the most dangerous habits of excess and intoxication.

Mr. *Hume* said, that the rt. hon. gent. had not given the workmen fair play. The rt. hon. gent. throughout his speech had betrayed a bias towards the case which the masters had endeavoured to make out. He repeated his conviction that the workmen's evidence had been rejected by the committee, and objected to many clauses of the bill, which he should endeavour to modify in the committee of the house.

The *Speaker* having left the chair,

Mr. *Calcraft* objected, generally, that sufficient investigation had not been given to the subject. It was farther a fault, in his opinion, that in the preamble of the bill there was no declaration against combinations of masters as well as of workmen.

On the reading of the clause which made it penal to induce any man to leave his work by threat or intimidation, or insult,

Mr. *Hume*: The word "insult" might be construed a thousand ways, and that which might be considered as an insult to one man, would not be so understood as applying to another. He thought the clause should be put in a more defined shape.

Mr. *Hobhouse* opposed the clause for the same reason. When magistrates are invested with summary powers of punishment, all vagueness is especially pernicious. Of this they had abundant evidence in many recent acts of the magistracy. If the word were inserted, he should make use of the forms of the house to impede the bill.

After a vague conversation between several members,

The *Attorney-General* said, if the word "insult" were thought too undefined, he would not press it; but he had precedent for the adoption of words in a penal clause, which admitted of full as great a latitude of construction. In an act then before him were the words "molesting or obstructing by threats, intimidations, or any other means."

Mr. *Scarlett* suggested that those words should be adopted in the bill.

The house again diverging into the general subject,

Mr. *Peel* hoped that the committee would proceed with the details of the bill, as sufficient time had now been consumed in attacking and defending the committee of the last and of the present year.

Mr. *W. Whitmore* contended, that as the magistrates in the manufacturing districts were generally masters, and as the persons who combined were generally workmen, this bill would give to the masters a power of oppressing the men with which they ought not to be intrusted. If there were a clause in the bill, providing that the magistrates in those districts should be paid by the state, and consequently should be directly responsible to government for their conduct, a great part of his objection to it would

be removed. He thought that a power of appeal ought to be given to the men. If it were not, it would be found necessary in a very short time to propose, for the sake of justice, that in the manufacturing districts there should be none but stipendiary magistrates.

The committee then divided on the clause, as amended by the Attorney-Gen.—For the clause, 60—Against it, 18—Majority, 72.

Mr. Hume moved an amendment that no master manufacturer, or son of a master, shall sit as magistrate to enforce the provisions of this act.

The committee divided.—For the Amendment, 15—Against it, 60—Majority, 45.

The other clauses were passed without discussion, and the house then resumed.

WEDNESDAY, JUNE 29.—Mr. Hobhouse presented a petition from certain persons delegated by the operative classes to watch over the progress of the measures now pending in parliament relative to combination, and who had not been heard before the committee. So moderate were the views of the petitioners, that they determined to offer no opposition to the bill, if modified by two alterations. They objected to the word "solely" in the clause which stated the only legal object of combination—the regulation of wages—and the mode of serving and proving the service of summons, which placed them in a worse situation than that of felons. He looked on the provisions of the bill which prevented delegation, with great dislike. The practice of small bodies delegated to act for large numbers, and thereby rendering great meetings useless, he regarded as a safety valve to society.

Mr. Wallace said that it was impossible to hear the multitude of persons who offered original opinions on the nature and probable effects of the bill. The committee, therefore, proceeded upon a few cases of fact, which were more likely to satisfy the house. He would not discuss the merits of the bill until it came in a more regular way before the house.

Mr. Peel observed that, as to the hearing of evidence upon every particular case, it would have taken seven years. And to what purpose? The facts were the same; the principle had been admitted; the parties who offered new information did not deny combination; they only wished to justify their own combination.

Mr. Hume repeated that while, upon representations of alarm and danger totally unfounded, since not one case of real violence had occurred, this bill so formidable to the liberties of the operatives was to pass, all inquiry was denied to the millions who were chiefly interested. He would make such opposition to the bill as the forms of the house would permit.

Mr. Peel said, that the hon. genl.'s misrepresentation compelled him to repeat the substance of his former observations. If his intention to oppose was so strong, he begged to ask him why he had agreed to the second reading of this bill? This bill was in fact founded on the hon. member's resolutions. No longer ago than Friday last, the hon. genl. had expressed his acquiescence in the bill.

Mr. Crispie thought no weight ought to be attached to the number of petitions; he would undertake to get up ten thousand such in Gloucestershire in eight and forty hours. He denied

that the mechanics were fit judges of the wages they ought to receive, or the effect of their refusing to work (hear, from Mr. Hume).

Mr. Whitmore expressed his intention, on the third reading, to propose a clause giving a power of appeal from the decision of the magistrates.

Mr. W. Smith thought that such a clause was highly necessary, and he would support it when it should be proposed. At the same time he thought it better that the bill with all its faults should pass, than that the country should be left without protection against the disgusting outrages which had lately taken place.

Sir F. Burdett said that no acts of outrage he had heard, seemed to call for any new enactment. The common law was quite enough to redress any evils that might arise, and the workmen would then be tried fairly by their peers, instead of being handed over to magistrates, who, ten to one, would have an interest against them. The old laws had the effect of keeping up a system of oppression against the poorer classes—that oppression which it was said would drive a wise man mad, and which would therefore, be likely to produce exorcises among the people exposed to it. Sufficient time had not yet been given to the experiment which had been tried, and he thought it hard, since the cases of the workmen had not been fully examined, that so precipitate a conclusion should be come to against them. He knew that the workmen had been grateful for the relief they had enjoyed, and he wished that it should therefore be tried at least one year longer. He thought that, considering the importance of the subject, and as the interests of a valuable and numerous class of the community were involved in it, a much more extensive investigation should have been gone into before the committee.—Evidence had not been taken upon any material points, and yet the bill went upon a presumption that all which had been alleged against the workmen was proved. A great deal was said about the violence they had practised, and attempts to assassinate, and other outrages, which, if they were really committed, could not be sufficiently blamed, but he denied that there was a tittle of evidence before the committee to prove them. He hoped, at this late period of the session, that the right hon. genl. would permit the bill to be printed, and then to stand over until the next assembly of Parliament.

Mr. Husbisson said, that he was convinced, from what the hon. bart. had said, that he had neither read the evidence nor the bill, which he recommended to be printed, and which had, in fact, been printed a week ago. If the hon. bart. had read the evidence, he would have known that the evidence of the assassinations to which he alluded, did not rest upon any statements before the committee, but upon the trial and conviction of the perpetrators before the highest legal tribunals. With the knowledge which the hon. member for Aberdeen had on these subjects, he was astonished at hearing him make use of the inflammatory language he had indulged in. His own course, when masters or workmen had applied to him, had always been to tell them to make their statements to the committee; who, if they thought fit, would then call witnesses. He would tell the hon. member that it would have been well for the men whose advocate he represented himself to be—it would have been well for the peace of the country—it would have been well for him.

self, if he had followed the same course. The hon. member would not then have done what he had this evening permitted himself to do—he would not have made statements which the subject did not justify; he would not have used inflammatory language, which could have no other effect than that of exciting discontent in the minds of the men, and for which he could not even give the hon. gent. the credit of originality, for he found the very same language, the very same sentences, the very same phrases, in letters which he had received from the committees of these combinations (loud cheering). The hon. bart. said he wished to have the operations of the common law restored. Did the hon. bart. know that all the complaints made before the committee, had been founded upon the injustice of that common law? and that the hon. member for Aberdeen had himself proposed a summary punishment, instead of that inflicted by the common law? that he had passed by the trial by jury to vest in the hands of a magistrate the power of punishing such outrages as might occur? As his only object was to provide a remedy for the disorders which had occurred, he would be content to accept the hon. bart.'s proposition, to repeal all the laws upon this subject, and to leave the common law in its former force; but he could tell him, that one consequence of that would be, that the hon. member for Aberdeen would make, if possible, a more inflammatory speech than he had done this evening (cheers).

Mr. *Ellice* had transmitted to his constituents copies of the bill, and they informed him that no inconvenience had been felt in their neighbourhood from the law as it stood. Still he had reason to believe that the bill before the house ought to pass, as a precaution against evils which would in all probability arise if the law were left in its present state.

Mr. *Peel* would inform the hon. bart., that it was the hon. member for Aberdeen who, upon all occasions in the committee, was most strenuous in objecting to the common law, and that it was upon his resolutions that the present bill was formed and founded. He would not refer to the speeches which the hon. gent. had been heard to make in that house, but to the resolutions proposed by himself. The 8th, the hon. member's favourite resolution was, "That the statute laws then in existence ought to be repealed, and that the common law, which made a peaceable meeting of masters or workmen an illegal conspiracy, ought to be altered." This was exactly what had been done; the course here pointed out had been exactly followed. But the 11th resolution went still farther, for it said, "That it was necessary, in repealing the statute, and altering the common law, to enact in their stead such a law as should, by an efficient and summary process (hear, hear), provide against all threats, intimidation, and acts of violence which should be in any case resorted to, for the purpose of interfering with the perfect freedom of each party to employ their labour or capital in such way as they might choose." He wished, that before any member gave his vote on this occasion, he would read the evidence respecting what had taken place, and then say whether this perfect freedom was enjoyed. In that evidence was contained the name of every individual who had been assaulted, with the particulars of the several outrages. He did not mean to say that those disorders had been the result of the hon. gent.'s resolutions;

but that they had taken place was a sufficient reason for the house providing a protection against a tyranny which was unparalleled in the history of the world. For this reason he trusted the bill would pass; for he was sure that no man could be responsible for the tranquillity of the country, if the session were allowed to close without some enactment on this subject.

Mr. *T. Wilson* expressed his sentiments in favour of the bill, because it tended to protect the workmen against their worst enemies—theirself. It was unjust, that manufacturers who had entered into contracts for the supply of goods, should be obliged to forfeit the penalty attached to non-performance, or else to grant wages disproportioned to their profits, out of which the workmen in employ under these circumstances, accumulated funds to support others who had abandoned their employers, because the latter could not, in justice to themselves, comply with their demands.

Mr. *C. Grant* said, that the clause providing summary process, now so much opposed, was supported by the hon. member for Aberdeen in his bill of last year, and was in perfect accordance with the resolutions of the former committee. But he thought the house would do better to attend to the bill itself, than indulge in mutual recriminations. He then took a brief review of the mischiefs arising from combinations, and alluded particularly to the conduct of the workmen in 1814, when 400 master manufacturers were obliged to write to their correspondents, requesting time under existing circumstances for the completion of their orders.

Mr. *Bennet*: It was said, that oppression had been inflicted by workmen upon their fellow workmen, who would not come into their way of thinking, and it was then argued that the existing law was necessary to put down this abuse. This he denied. If bludgeons and vitriol had been used in the manner stated, the law already marked such conduct as illegal, and provided for its punishment. It was said, that they ought to protect the workmen against themselves; but he would also protect masters from the delusion produced by the introduction of measures manifestly in their favour, and which, he believed, frequently led them to act with harshness. He would not use irritating language—it was not desirable to use it (hear)—but he was quite convinced that those who objected to parts of this measure, were only anxious that no unfair advantage should be given to either side. If the bill were recommended, and all those parts which interfered with the common law struck out, it would be adequate to every purpose of justice.

The petition was then laid on the table. On the motion "that it be printed,"

Mr. *Hobhouse* said, he was not a member of the committee; but he had been informed, that when individuals came forward to contradict the statement relative to certain outrages, which had been so much exaggerated, they were not allowed to do so. Had any of them been heard? (Mr. *Hume*, "Not one.") It was most unjust to legislate against a whole body of individuals, who had not been fairly heard (hear). Complaints had been made of violent language, but no violent language could do mischief in this country, except where individuals felt that their wrongs justified it. All the workmen wanted was to be fairly heard; and if they were not, that violence was likely to ensue,

which had been so frequently deprecated in the course of this discussion.

Mr. Hume said, as very serious charges had been made against him, he felt himself called upon to give such an answer with respect to them as the circumstances warranted. It was alleged, that his tone and manner had been inflammatory. He denied the charge. He had stated nothing but the truth. He was prepared to prove all that he had advanced. He had thrown no personal reflection on any man. It was a course of proceeding he had always avoided (hear), because no good could be expected from it. Gentlemen said, "Let the masters and the men be protected, and let the men be protected against each other." He would say the same thing: but this object would not be effected by the present bill. In every instance the masters were protected, and in every instance the interests of the men were neglected. It was asserted by gentlemen opposite, that every outrage which had occurred, was caused by the repeal of the combination laws and the enactment of the bill of last session. They were told that the common law was abrogated by that bill. Now the country was suffering under a delusion on that point, and no person had done more to create that delusion than the *rt. hon. Secretary for the Home Department*, and the *rt. hon. President of the Board of Trade*. The common law was still in force. It was only inoperative with reference to peaceable meetings of a few workmen, who might assemble to regulate the rate of wages; but it was perfectly in force where threats, intimidation, or violence occurred. The great object in view, appeared to be to prevent the workmen from exercising any judgment in matters of wages; than which a more absurd or preposterous doctrine could not be advanced. By a summary process, the master was now to have an opportunity of sending a workman for three months' to the tread-mill—a provision to which he could never consent, unless the workmen enjoyed an equal protection. He denied the necessity of this additional legislation. The country was peaceable, and did not require it. But it was said with much appearance of sympathy and candour, "that we must protect the men against one another." What foundation had the *rt. hon. President of the Board of Trade* for introducing any such provision? One solitary instance had been adduced—one solitary petition had been presented, by certain sawyers\*, complaining of the treatment they had received from the Thames Union; but when two individuals came forward, and, on the part of the sawyers of the Union, prayed that they might be heard, as no such thing as that complained of had occurred, they were told to go and procure a counter petition. After a system which had so long continued had been swept away, of course it was to be expected that some little re-action would take place: but, surely, instead of adopting new measures, they ought to take time to see how the new system would ultimately work. Then, and not until then, could they correct its imperfections. More facilities had been afforded for restraining combinations in the last year, than in the ten preceding years. (Mr. Peel—That was the consequence of the summary process.)—That summary process was introduced last

year, to meet the then state of the country. (hear). If they would leave the summary process as it stood last year, the workmen would be content to take it. But many alterations had been made, which completely changed the nature of the law. He proposed to shew, that combinations were greater, and their organization more complete, before his bill was brought in, than they had been at any subsequent period; and this, notwithstanding the imputations which had been cast upon it by the *rt. hon. gentleman*.

Mr. Peel on the present occasion did not ask the house to strengthen the hands of Government (cheers); neither did he care for the masters to the exclusion of any other set of men (cheers); but he wanted the house to pass some act which should effectually resist the lawless efforts and proceedings of those who had associated for most unjustifiable purposes—which should protect the poor and defenceless, but industrious man, from becoming the victim of combinations which sought by every species of vexation to prevent him from availing himself of that employment which they themselves declined. The house was not called upon to make provisions of that kind without proof of the necessity for their enactment. Mr. Archibald Campbell himself, the *hon. gent.'s* chosen witness, from whose testimony he had that evening read so largely—Mr. Campbell expressly declared, that the only remedy he could suggest for the practices that had prevailed in his part of the country, of wounding and disfiguring, and destroying clothes and property by means of throwing oil of vitriol over them, would be the enactment of some such measure as Lord Ellenborough's act (hear, hear). In the city of Dublin, it would appear by the same evidence, that in one division of the police-office, there had been 16 cases of such mutilation of person or destruction of property, in the short space of nine months. The next passage imported, that in the same department, and in the same space of time before that act of the *hon. gent.'s* was passed, there had been only three such cases, the other sixteen having occurred since. Again he implored the house before they separated, and *hon. gent.* returned to their homes, to give that protection to the defenceless and industrious poor which this bill was calculated to afford them; and which protection they deserved at the hands of the Legislature, in return for their loyalty and peaceable conduct (hear, hear).

The *Attorney-General* confessed, that the course which had been that evening taken by the *hon. member for Aberdeen* on this question, filled him with surprise; because after this bill was printed he happened to have some communication with the *hon. gent.* on the subject. The *hon. gent.* told him on that occasion, that he approved of the principle of the bill, but that there were some faults in it that he could wish to have amended. And he had now in his pocket a copy of the bill as corrected by the *hon. gent.* himself (cheers from the Treasury bench). The first of the alterations suggested was that informations should be on oath; and that clause now stood amended accordingly. The other regarded the clause relative to the absconding of witnesses; which clause, he admitted, was still retained in the bill in its original state. The only other objections, however, that was then urged by the *hon. gent.* was as to the word "solely," in relation to the objects

\* There was also one from certain caulkers. See page 433.

of these meetings; and he remembered that the hon. gent. asked him—what if it should turn out that such meetings assembled not “solely” for the purpose meant to be adverted to? These were all the alterations recommended at that time by the hon. gent., who did not intend then, as he understood him, to oppose this bill (hear).

Mr. T. Wilson thought it right to correct a misrepresentation of the hon. member for Aberdeen. He had stated that the thirty-three workmen, whose names were affixed to the petition praying for protection, had disclaimed all knowledge of that petition. Now he had the authority of Mr. Beale, a gent. who witnessed what took place, for stating, that although three of the men expressed their dissent from that petition, all the others were called together in presence of their master, and having been asked whether they heard the petition, and were acquainted with its contents, one and all signed it, and declared that they suffered great inconvenience, and did pray for protection.

Mr. Hume said that the petition of the parties in question was on the table of the house (hear, hear). They prayed to be allowed to prove their allegations, which were to the effect that he had stated. Now, under these circumstances, he must leave it to the house to decide which of the two statements was the correct one.

Mr. Wallace then moved the order of the day for receiving the report on the bill.

Mr. Hume was decidedly opposed to bringing up this report. In regard to what had been stated by the Attorney-General, he had proposed, undoubtedly, that every offence not punishable under his own bill, but which it appeared expedient to punish, should be inserted; and he would support such insertion. But he would not support the creation of an indefinite power to punish individuals, for offences not specifically defined. With regard to the present bill, there was but one solitary explanation to which, so far as he knew, he had acceded. It was represented to him, that whereas under the former bill, two witnesses were necessary to obtain a conviction, and great inconvenience and difficulty were experienced in most instances in obtaining two witnesses; it was now suggested that one witness should be substituted; and to that he felt no objection. Upon the whole, opposed as he was to this bill, and despairing, after the manner in which his observations had been met, of inducing gentls. on the other side to take what he considered a proper view of the subject, his only course was that which he should now adopt—of moving that the house be counted.

On the house being counted, and 44 members being found present, the house proceeded.

Mr. Hume proceeded in his opposition, observing that the numerous petitions that had been presented against the combination laws since the appointment of the committee ought to have been duly examined. As it was, the petitioners might as well have kept their petitions to themselves. There had been 97 petitions presented to the house. Into those petitions—into all of them—it was the duty of the house to have entered. As the committee had refused to examine them, he had at one time intended to have read them all to the house (a laugh). A bill of such importance, affecting so many thousands of persons, ought not to have been introduced except after the most minute ex-

amination. The fact was, however, that his Majesty's Ministers had taken a partial and unfair view of the case, as it stood between the masters and the men; and had not acted towards the persons interested with the justice which was usually exhibited in a common turnpike road bill. He then read a petition from certain journeymen of Leicester, asserting their right to obtain what they considered a remunerating price for their labour. He agreed with the petitioners in the view which they took of the subject, although he had heard it said that low wages were a good thing. That he denied. Low wages tended to degrade the labourer. It was the high wages which the English artisan received, compared with those received by the Irish, which made the former so superior. He again protested against the power given to magistrates to punish men for what was called molesting their fellow-workmen. Any act, however innocent, might be considered molestation. The house, perhaps, might consider that he was molesting them at that moment (a laugh, and cries of hear). That cheer convinced him that his objection to that part of the bill was proper; for an act of right and propriety on the part of a workman might be construed to be molestation just as it was in the present instance with respect to him; for he unquestionably was performing a just action in opposing an unjust measure. The hon. gent. sat down by declaring his intention to resist the bill with his utmost endeavours through every stage.

The house then divided.—For receiving the report, 56—Against it, 2—Majority, 54.

Sir R. Wilson strongly reprobated the use of the indefinite terms “molestation or obstruction.”

Mr. Peel said, that those words were accustomed to be used in acts of Parliament from the days of Charles II. Courts of justice had long been familiar with its application, and accustomed to act upon it; and no other term would serve to prevent those practices which it was the object of the bill to put down.

Mr. Calcraft defended the words, without which he thought the bill would be a dead letter.

Mr. Stuart Wortley expressed the same opinion.

In reply to a question from Mr. Hobhouse, The Attorney-General consented to introduce two words into one of the clauses, which would make the bill apply to combinations of masters to reduce the rate of wages, as well as to combinations of the men to raise it.

Mr. Hume repeated his objection to the clause containing the terms “molestation and obstruction,” than which he declared that nothing could be more vague and uncertain.

Mr. Denman followed on the same side. The words “molest or in any way obstruct” were not found in any statutes, except those relating to the revenue. On a misdemeanor so vaguely defined, no court could ever pass sentence.

The Attorney-General contended that the words complained of as vague and indefinite were sufficiently precise for the purposes of legislation. They were found in more than twenty acts of Parliament, on which the Judges were acting every day. Such a clause was rendered necessary by the conduct of the journeymen shoemakers of the metropolis at the present moment. They surrounded the shops of their masters, and when any workman left it who did not belong to their confederation, they did not

assault or threaten him, for they knew that to be contrary to law, but they followed and insulted him by every means in their power. Such scenes if not checked, must evidently lead to bloodshed, and therefore he maintained that the present clause was not only expedient, but necessary.

The amendment was then agreed to, and the bill was ordered to be read a third time to-morrow.

**THURSDAY, JUNE 30.**—On the question for the third reading, the *Attorney-General* said, he had to propose two verbal alterations of some importance. The first regarded the limitation of time within which, as to the summary clause now in the bill, prosecutions could be instituted. He proposed six months as the period. Then as to the clause which enacted, that if witnesses did not, or would not appear, they should be liable to be kept in prison until they should answer the questions put to them. This, however, as the principals, in offences under this bill, could only be imprisoned for three months, would be rather harsh: he had, therefore, in respect of them, introduced the limitation of three calendar months. There was also a third alteration with regard to appeals. He had thought it necessary, in pursuance of the general practice in cases of this kind, to suggest another clause, to provide that convictions should be engrossed on parchment, and certified at the next quarter sessions; and after that, the party entering an appeal should bind himself in the penalty of 10*l.*, and two sureties in 10*l.* each, to appear at the court of quarter sessions; for in case of failure in his appeal, it was but reasonable that the appellant should pay the costs of such a proceeding.

*Mr. Dawson* thought it would be extremely hard to compel a poor man to give security of this kind against the event of his failure; and yet, in case of his success, to leave him saddled with the expenses of obtaining justice by such appeal.

The *Attorney-General* consented to modify his clause so as to give costs to the appellant in the case of his succeeding in his appeal.

*Mr. Hume* said, his objections to this bill had been greatly mitigated by the alterations introduced by the *Attorney-General* (hear, hear); but he still objected to the words "molesting and obstructing," and to permitting masters, who were magistrates, to decide causes in other trades. For instance, a magistrate master-hatter might be called on to decide in a case where a master-shoemaker was concerned. Could the journeyman-shoemaker, in such a case—could the House—imagine that impartial justice could be done?

On the motion that the bill do pass,

*Mr. Hume* said, that he wished to make a few remarks before the last question was decided. No man, high or low, ought to be coerced by combination; but he was satisfied that nine-tenths of the recent disturbances had arisen from a want of conciliation between the parties, often, he was sorry to say, beginning with the masters, and attributable, perhaps, to long habit, from the existence of previous laws. These laws it was intended now to remove (whether they would be removed, in fact, was a matter of doubt), and he hoped that nobody would have occasion again to come to the house to propose any alteration, unless it were to get rid of the remaining part of the system, which pressed

unfairly on the operative classes. He hoped that, on the part of ministers, there would exist a determination to listen as well to the complaints of the men as of the masters, and that they would not hastily come to a conclusion unfavourable to those who had hitherto been unjustly oppressed. He had been anxious to protect them as far as lay within his power. He had done as much as he could to obtain free labour for the men, and if he had a request to make to them, it would be, that they would avoid interfering with regard to wages, by threats, or even molestation. He trusted that all magistrates who were called upon to sit in judgment upon cases arising out of this law, would act impartially between the accuser and the accused, and give the most favourable interpretation to a word so dubious in its import. It was, most unquestionably, the interest of the operative classes to submit, and if they did submit and were oppressed, they would be certain to receive the sympathy of the public.

*Mr. Peel*: Unwilling as he was to prolong this discussion, he must repel the insinuation that there had been any disposition on the part of Government to bear hard upon the working classes, or that there had been the least desire to favour the masters. If the hon. member for Aberdeen had continued to express the sentiments which he had formerly entertained on this subject, he would most cordially have concurred in them. In a letter dated the 26th of March, 1825, addressed by the hon. member to a shipwright of Dundee, named Allen, he found the following expressions:—"If the journeymen do not act with more moderation and prudence than they have hitherto displayed, the legislature will be compelled to retrace its steps, and to repress the demands which have been made in various parts of the country, too often accompanied with violence." The legislature did not, however, mean to go so far as the hon. member had threatened. It did not mean to retrace its steps, nor to re-enact the combination laws; and he trusted that the measures provided by this bill would induce the journeymen to return to a peaceable demeanour.

The bill was then passed.

**LORDS, MONDAY, JULY 4.**—The Earl of *Liverpool* moved the order of the day for committing the bill in this house.

The Marquis of *Landown* had several petitions to present against the bill. He expressed his regret that the house should be called upon, within two days of the prorogation of Parliament, to pass a bill which was of so important a nature, that it ought to have engaged the attention of their lordships for a considerable time. In addition to this precipitation, their lordships were not assured that the information necessary to enable them to come to a decision was on the table of the house. Under these circumstances, it was with great reluctance that he gave his assent to this measure. Yet, as upon the whole he thought the measure necessary, he should not oppose it. The petitions he had to present prayed that counsel might be heard against the bill, and if there were time, it would be their lordships' duty to accede to this prayer; for they ought to give their assent to no law, however necessary it might appear to them to be, if any considerable body of persons thought themselves aggrieved by it, without first hearing what such persons

had to say against it. At another period of the session he would have thought it his duty to support the prayer of the petitioners, and to move that their counsel be heard. In the present case, however, he could only move that the petitions do lie on the table.

The Earl of *Liverpool* thought there was sufficient time for any discussion of this bill which could be necessary. The measure arose almost entirely out of the bill of last session. Soon after it passed, disturbances and acts of violence took place in different parts of the country; and it became necessary to pass some act on the subject before the session closed. If there were any defects in the measure, the allowing them to pass could not be compared with the mischief which would follow if the law were left in its present state. This bill not only prevented the combination of workmen against masters, and of masters against workmen, but prevented the combination of workmen against workmen. This was a protection which the honest and good workman had a right to expect. The present bill repealed the act of last session, but in doing so it also repealed all the old restrictive statutes, which were repealed by that act, while it restored the common law to its former state.

The Marquis of *Lansdown* wished his opinion to go forth, that some measure of this kind was necessary, and more particularly that it was necessary to protect the workmen against themselves. He wished every facility to be given both to masters and workmen to consult about the rise or fall of wages, but it was obvious that no manufacture could be carried on if any persons could dictate to masters who should be employed, and prevent men from exercising their right of labouring on whatever terms they might please.

The Earl of *Rosslyn* concurred in the necessity of protecting workmen from the effect of combinations among themselves; but as the bill gave them the power of consulting about their wages, he thought it would be proper also to give them the power of consulting respecting such regulations in their respective trades as might affect their interests. There were in many trades regulations which affected the rate of wages in reality, although they might not appear to do so. He should presently propose a clause on the subject.

The Earl of *Darnley* expressed his surprise that the Lord Chancellor and His Majesty's Prime Minister should have been so ignorant on the subject of a bill which had passed in the course of last session, and that bill so important a one.

The Marquis of *Lansdown* thought the punishment inflicted by the bill too severe. He would move to leave out the words "hard labour," and he would consent, instead, to insert "six months" instead of "three" before the word imprisonment.

The Earl of *Liverpool* thought the punishment prescribed adapted to the nature of the offence: besides, another clause in the act gave a party sentenced to that punishment by a magistrate, a right of appeal to the quarter sessions, with intermediate suspension of the punishment.

Lord *Lansdown's* amendment was negatived.

The Earl of *Rosslyn* wished to have the clause for allowing journeymen to meet for certain purposes, extended and strengthened by the addition of a few words, which he proposed for

that purpose, in accordance with his previous observations.

The Lord Chancellor said that the clause as it stood would bear the very interpretation which the noble earl desired; and if it were brought before him, sitting as a judge, against any party applying for his *habeas corpus*, in a more oppressive sense, he would discharge the prisoner.

The bill passed the committee without amendment. The standing order was dispensed with, and the bill was read a third time, and passed.

### *Cotton Mills.*

COMMONS, MONDAY, MAY 16.—Mr. *Hobhouse* moved the second reading of his bill, for regulating the working hours of children employed in cotton manufactures.

Mr. *Hornby* objected to the bill on account of its interference in the apportionment of labour, which he thought was contrary to the best principles of political economy. It was proposed by this bill to reduce the children's hours of working by one-twelfth. At present they laboured in the mills twelve hours on each of the six days of the working week; and this bill went to reduce the twelve to eleven hours. But it was to be observed, that if they reduced the labour of the children, they must reduce that of adults too; so intimately were their labours connected with, and dependent on, each other. The consequence of this reduction of the hours of labour would be a diminution in the value of the total production of the cotton manufacture of two millions and a half per annum (hear). He should move as an amendment, that the bill be read a second time that day three months.

Mr. *Hobhouse* observed, that, in 1819, Sir R. Peel had introduced a bill, to which he now only wished to add a clause to compel the attendance of parties before magistrates. The member for Preston had told them, that there would be a diminution if the bill now before them were to pass, of two millions and a half in the annual production; but would they allow any considerations of this kind to interfere with a question that involved the health, and the comforts, and the happiness of so many children? (hear). Those benevolent masters who, with a feeling superior to considerations of their peculiar interest, had petitioned Parliament in favour of the object contemplated by this bill, had candidly stated, that the increase of machinery furnished increased temptation to employ children over hours. The children in these mills, with the exception of those employed by the member for Preston, and a few others, were now worked twelve hours and a half in the day; and for three or four days in the week were not allowed to leave the mills to take their meals, which they were obliged to take off the floor of their mills. Their skins were like parchment, and they scarcely looked like human beings. With regard to the medical evidence that had been furnished before a committee, and on which some gentlemen had relied as proving that 72 hours' labour during the week, or 12 hours per day, was not too much for a child; what weight could the house attach to the testimony of witnesses, of whom, one being asked whether he thought a child could keep standing, without prejudice to her health, on her legs, for 23 hours successively, had answered "That may be a matter of

doubt!" (hear, hear, and a laugh): and of whom, another being asked whether the being pent up in a temperature of 80 degrees, and inhaling the flogh or flew of the cotton, would not prove injurious to the lungs and the health of children, replied, "that they might expectorate it." As to the interference complained of, there were various acts of Parliament in which a similar principle was recognized. There were acts, for example, to limit the hours of labour of shipwrights' apprentices in Dublin; and yet Irish children, he believed, were quite as strong as those of Manchester. As for the losses of the cotton, or any other trade, in a case like this, he would rather give up the trade itself, than continue a system so injurious.

Mr. Peel could neither support the original motion nor the amendment. He thought that if Sir Robert Peel's bill were put into full operation the object of the hon. gent. would be attained.

Mr. W. Smith replied that he was ready to furnish the most convincing proofs that the act which had been just alluded to had been most shamefully evaded.

Mr. G. Phillips said, that the whole course of his experience induced him to believe that this bill would in no degree improve the condition of the labourers. He contended, too, that those who were acquainted with the management of cotton-factories were best able to judge of what regulations were fit to be adopted with respect to them; he was satisfied that the condition of the people working in the factories was much better than that of persons who worked out of them. He had heard only this morning that the weavers did not receive more than one-third of the wages paid to the persons in factories, and the latter were besides provided with more convenient and wholesome places to work in. It would be well to limit the hours of children's working, if it were possible; but that was not possible without limiting the labour of adults; and the only effect of the measures now attempted would be to deprive the children of work altogether. He was satisfied that no such number of hours as had been asserted were ever used for the employment of children. The evasions of the acts which had already taken place had happened, it was true, in the least respectable mills, where the owners were wholly regardless of public opinion. The provisions of Sir R. Peel's act had been evaded in many respects; and it was now in the power of the workmen to ruin many individuals by enforcing the penalties for children working beyond the hours limited by that act. It was a great mistake to suppose that the labourers of Lancashire were under the domination of their masters, or that they had no will of their own. To agitate the subject was at all times dangerous; and the effect of this and similar acts of legislation would be to keep up a spirit of hostility between the masters and the men. They had already produced this effect. The sale and purchase of labour by the workmen and their employers ought to be left wholly unrestricted. The best thing that could be done to effect this object would be to repeal all that had been enacted on this subject.

Sir F. Burdett agreed with his hon. friend who spoke last that no legislative interference ought to take place in merely commercial trans-

actions. But this did not apply to the subject before the house. His hon. friend, and others, who like him were connected with the manufactories, did not like to be interfered with; and yet they could not deny that before the passing of Sir R. Peel's act, the greatest abuses existed in the manufactories (hear, hear). It could not upon any grounds be pretended that these helpless beings should be sacrificed to the necessities of their parents, and the cupidity of those by whom their labour was purchased. We heard of slavery abroad, but he had never heard of any such instance of overworking as had been published with respect to the labour of the children in the cotton factories (hear, hear). If these representations were true—and they remained as yet uncontradicted—it was impossible to imagine any case which called more loudly for the interference of the legislature. Whatever the house might resolve to do with respect to adult workmen, the situation and the sufferings of the children required to be immediately provided for (hear, hear).

Sir P. Musgrave protested against the bill as a needless interference. He had no objection to vote for that clause which tended to enforce the provisions of Sir R. Peel's act.

Dr. Lushington put it to the house, whether they were not called upon to support a bill which provided that no person under the age of 16 years should be employed for more than 11 hours and a half in every day. Adults might be permitted to do as they would, but he would never consent that children should be devoted to labours which unfitted them for the exercise of the duties of their more mature years, and in many instances brought on an early death.

Mr. Evans, as a proprietor of a large factory acknowledged that there was much in the present system which required amendment. He did not think that the manufacturers would be losers if the hours of labour were shortened, because the children would be able to pursue their work with greater activity than at present.

The bill was then read a second time, and ordered to be committed on Friday.

TUESDAY, MAY 31.—The house went into a committee on the Cotton-Mills' Regulation Bill.

Mr. Hobhouse said, that he had originally wished to reduce the labour of children in cotton-mills to 11 hours in the day, and when he said that there was no trade at which even robust men were so long employed—that persons who were actually sentenced to labour as a punishment, were not called on to work for so many hours; he thought this proposition was a reasonable one. But he was willing to modify it, in order to meet the wishes of those who had objected to the bill. He found that the number of hours during which different journeymen were obliged to work, were:—Machine-makers, moulders of cast-iron, house-carpenters, cabinet-makers, stone-masons, bricklayers, millwrights, wheelwrights, blacksmiths, &c. each only for ten hours and a half, and some only eight and a half in winter. Thus it seemed that the time of these children's labour exceeded the period assigned to men; independent of which they must take into consideration the temperature in which the children were compelled to breathe, and which was always higher than that of the atmosphere. The alterations he proposed to make were:—that the children, for five days in the week should work for twelve instead of



eleven hours, as at first proposed—and that on Saturdays they should work only nine hours. He meant also to introduce a provision, giving power to the acting justices of the peace to compel witnesses to attend to give their evidence, when informations were laid under this bill.

Mr. J. Smith believed that the custom of making children work for so many hours was prejudicial to the interest of their masters. In the factory of one of the most respectable and influential cotton-spinners in the country, Mr. Owen, the hours of employment had been decreased from  $11\frac{1}{2}$  hours, to  $10\frac{1}{2}$ ; and as much work was done in the latter, as had previously been done in the former number of hours. He believed the state of the flax-mills called quite as much for investigation, as the cotton; and he should have proposed a clause respecting them, if he had not feared it would endanger the bill.

Mr. Huskisson agreed in the propriety of enabling magistrates to compel the attendance of witnesses, where the law as laid down in Peel's bill was supposed to have been violated; but he by no means put faith in a great many of the statements which had been handed to the hon. member for Westminster, nor believed that the children generally in cotton mills worked fourteen hours a-day. A great deal of the present complaint was got up by one of those combinations which would require the hand of Parliament to put them down. As to the labour in the cotton-mills which was so heavily complained of, if its duration was considerable, there was not much exertion required in it. In agricultural work, a plough-boy was at labour as many hours as a child in a cotton-mill; and if they investigated every species of labour, he feared they would find few which they would not wish to be otherwise than they are. But what would become of the children if their employment were taken away? Bad as their present state might be, this would only make it worse.

Mr. W. Smith said, that as to the necessity of this excess of labour, he denied it; the people at the Lanark mills worked only 10 hours and a half a-day; and those mills paid sufficiently, and gave employment to 3,500 persons. No one could reprobate the system of slavery more than he did; but the labour performed by our negroes in the West Indies was actually less than was exacted from these children at Manchester, omitting the fact that it was performed under circumstances far less detrimental to health.

Mr. Peel was of opinion that the most valuable part of the present bill was the power which it gave to magistrates to enforce the provisions of the existing one. He should not oppose the clause limiting the labour on the Saturday; but he should have been better pleased to have had no alteration as to the labour, without a commission to investigate the facts.

Mr. G. Phillips believed that the effect of reducing the hours of labour would be to throw the children out of employ altogether. The present complaints were got up by a most formidable combination, "the Grand Union of Operative Spinners."

Mr. Gordon said, he thought that the children should be defended, not more against their masters, than their parents (hear). The children were not free agents, and required the

protection of the legislature as much as the slaves of the West Indies, who it was admitted were not free agents, and for whom regulations had been made, not only as to what work they should do, but what allowance of food they should receive.

The bill passed through the committee, and was afterwards sent to the Lords, where it passed without discussion.

### *Poor Rates.*

THURSDAY, MAY 12.—Mr. Monck moved for leave to bring in a bill to prohibit for the future the payment of any part of labourers' wages out of the poor's rates. The hon. genl. observed, that this practice of rendering every agricultural labourer partially a pauper, went not only to annihilate all independency of principle among the lower classes, but, moreover, to incumber the country with a population which it had no means of providing for. The law, as it stood, amounted to a bounty upon idleness. A labourer who, by day-work, earned, say 8s. a-week, was unable, if he had a family, to live on this, and received, perhaps, 6s. therefore in aid from the parish. If he was a man industriously inclined, and by task-work, or other extra exertion, raised his 8s. earnings to 12s., what was the consequence? He had his toll for his pains; for then the parish gave him 2s. And even this was a slighter evil than the encouragement which this practice gave to early marriages. In his natural state, the bachelor stood better off than the married man; his gains might be equal, and his burdens less; and this comparative ease of condition formed the true and legitimate check to improvident unions. But our law now neutralized that check entirely; or rather, indeed, gave a bounty to a man for producing children which he could not maintain. The law said now, that a single man should not earn so much by his daily labour as a married man. While he was a bachelor, he must labour at so low a rate, that all hope of making any provision for matrimony was out of the question; but he had only to marry and the parish would at once increase his wages, and give a pauper's support, as fast as they were born, to his children. The hon. member, after commenting generally upon the oppressiveness as well as the impolicy of the existing system, sat down by moving for leave to bring in his bill.

Sir George Chetwynd did not believe that it was lawful, as matters stood, to pay the wages of labourers out of the poor's rate; and if he was right in that opinion, the hon. member's bill became unnecessary.

Mr. Monck believed that the statute of Elizabeth, which authorized the raising a rate to maintain the children of parents who could not maintain them themselves, would warrant such a practice. However the law stood, the practice was notorious. In many places the farmers paid mere nominal wages—4d. or 6d. a-day, and sent the labourer to the parish to make up the deficiency.

Leave was given to bring in the bill.  
(This bill was afterwards withdrawn.)

### KING AND ROYAL FAMILY. *Buckingham House.*

THURSDAY, JUNE 9.—The Chancellor of the Exchequer said upon this subject, that Carlton palace, as many hon. members might be aware, was at the present moment in a very dilapidated

ed state. It was, in fact, so far unsafe to inhabit it, that, whenever a large assembly was held in the upper rooms, it became necessary to prop up the lower ones. As the expense attendant upon the necessary repair, under such circumstances, would of course be very considerable, it was conceived that it might be more convenient to abandon Carlton House entirely, and make Buckingham Palace the royal residence in future. On part of the ground which Carlton House now occupied, a new building for the Royal Academy might be erected, and probably it would also afford one for the intended National Gallery. It would be easy, upon other portions, as it was conceived at present, of this site, to erect a series of handsome dwelling-houses, the value of which would cover a considerable portion of the expense to be incurred; but, as this must be a matter for profit hereafter, and money was wanted immediately for the new residence, it would be requisite for parliament to take measures with respect to that supply. The rt. hon. gent., after stating farther, that it was not intended to cover the whole of the space now occupied by Carlton House gardens with buildings, and that he believed the plan proposed for the intended alterations at Buckingham House would give general satisfaction, sat down by moving the following resolution—that it was expedient to authorize the application of part of the landed revenues of the Crown for the repairs and alteration of Buckingham Palace.

The resolution was agreed to.

The *Chancellor of the Exchequer* moved the order of the day for the second reading of the Buckingham House Bill.

Mr. *Banks* expressed his regret that, instead of making those alterations in detail, something grand was not undertaken in the way of the erection of a royal palace suited to the dignity of the king, and proportionate to the opulence of the nation. He thought it was high time that something of the kind should be undertaken, upon a site adapted to the purpose, such as Hyde Park, or the Regent's Park, and that a residence should be established truly worthy of the kings of this country.

The *Chancellor of the Exchequer* said, it could not be denied that it would be desirable to have a royal residence worthy the dignity of the king, suited to the convenience of the subject, and ornamental to the metropolis; and his Majesty, in conjunction with those who proposed the grant, were most anxious, as far as the object could be attained, to have all these desirable points conjoined. It was extremely easy for a man, walking about town, to fix his eye upon a spot, and to write a clever pamphlet about it, showing how a spacious place could be found for the erection of a royal palace, but he had never yet seen a site, free from all other objections, and embracing what his Majesty was so desirous to regard, namely, the public convenience. His hon. friend had not only objected to the present situation, but had pointed out another, namely, Hyde Park; but it appeared to him most objectionable to overload that park with a great building; for the idea of his hon. friend could not be confined to a mere comfortable residence, but he must mean a splendid palace for the accommodation of the sovereign himself and part of his family, for foreign ambassadors, and great officers of state (no, no, no! from Mr. Banks). Well, then, see how difficult it was to come at people's

meaning. The designs of Inigo Jones, the noblest that had ever been devised by the skill of any architect, could not be executed without encroaching on a vast portion of that park, which was now open to be traversed by the public, and which was always crowded as a place of enjoyment upon whatever days the people of this country had leisure to amuse themselves (hear, hear). That situation, therefore, would not only be inconvenient, as far as regarded the public, but with respect to the comforts of his Majesty; for it was expedient that the royal residence should have the advantage of privacy as well as of publicity: you must of course have a private garden for the sovereign, and it would take twenty years before a plantation would have grown sufficiently high to conceal the garden from all the windows in Park Lane. It would be extremely easy to point out a beautiful spot in Kensington Gardens, but that situation would be injudicious for obvious reasons. The Regent's Park had also been mentioned, in which, no doubt, a delightful situation might be procured, but most inconvenient from the want of immediate access to the person of the sovereign, by those whose presence might be required; taking one part of the year with the other it would be a most inconvenient situation. Now, Buckingham House had all the advantage of convenience of situation and a commodious garden; for although some thirty years ago, had there been any houses in Grosvenor Place, they would have overlooked it, yet now that inconvenience was quite removed; and if the building was improved in good taste, with a handsome facade, although the front might not be extensive, it might still be made a magnificent building. He had scarcely ever known any set of men agree upon matters of taste, which made him very sceptical about the validity of objections. He was sure the house would agree that, in any arrangement, the personal convenience of the monarch ought to be consulted. It was not that his Majesty had any capricious inclination to leave his residence in Carlton House, where he had lived so long, but that the house seemed inclined to quit the king; for it was in fact in a most dilapidated state. That part of the house now inhabited by his Majesty, was formerly devoted to the use of offices, and was converted afterwards into rooms, the effect of which had been to weaken the building, and when it became necessary to have large companies in the upper rooms, it was requisite to resort to props actually in the rooms which his Majesty inhabits. And with respect to the interior, although it looked very brilliant by candle-light, it had not been furnished for thirty years, and any one who had had the fortune of loitering there on public business must recollect the fact of its being covered with London dirt, and have seen how unfitting it was in many other respects for a royal residence. He did not give any opinion, for the subject was not now before him, on the question of expending a million, or a million and a half, on a suitable palace for His Majesty; but supposing such a measure were to be proposed what was to become of his Majesty in the interim? And supposing the proposed improvements to take place, and that a royal palace were to be afterwards erected, the present buildings would not be lost to the country. It was not an improbable thing that we might have a Queen Dowager, or an heir apparent, each of whom

would require a residence suitable to their rank in the country. It had been seen, before the late reign, that some of the Royal family were lodged in Leicester-house, and other places which were greatly below the exalted rank of the tenants. By the removal of Carlton House an open view would be opened from Regent Street to the Park and the Horse Guards; buildings might be erected which would be highly ornamental to the metropolis; and Government might so dispose of part of the ground situate in that neighbourhood, as to produce an income sufficient to defray the expense of some of the projected improvements. The site of Carlton House might be advantageously used in the erection of buildings for the accommodation of the Royal Academy and the National Gallery (hear). For the former, it would be admitted that the Strand was most inconvenient; and for the latter, the British Museum, which had been suggested, was not the most proper place. With respect to the Royal Academy, people had to ascend, at present, nearly one hundred steps before they came to the exhibition rooms. This, he regretted, threw the exhibition; in a great degree, out of the reach of the old, the asthmatic, and gouty. For his own part, he could fairly say, that it was with the greatest delight he had heard of his Majesty's intention of offering Carlton House to promote the comforts and conveniences of his people, in preference to his own. Acting upon that offer, he thought that Government had adopted the most judicious course under all the circumstances. But he had long given up the hope of pleasing every body (hear, hear). Some persons were of opinion that Buckingham house, in its present condition, would answer all the purposes of a Royal Palace; but they must be very little acquainted with its interior state. It was, in fact, very shabby inside, and desperately dirty (a laugh). But according to the present intention, whatever might be said of the site, it would give his Majesty one of the finest apartments possessed by any Monarch, and all this for a smaller sum than 200,000*l*.

Mr. *Ridley Colborne* was sorry that so large a sum of money was to be expended on such a wretched site as that of Buckingham-house. The money which had been expended on the buildings at Windsor, Virginia Water, and Brighton, would have been sufficient to form a splendid and magnificent palace for the sovereign of the country.

Mr. *Dankes*, sen., said, that when he knew that 800,000*l*. would enable the country to build a magnificent palace for the sovereign, he was averse to granting 200,000*l*. to the repairs of a paltry and insignificant palace.

The bill was then read a second time, and ordered to be committed to-morrow.

### *Windsor Castle.*

**LORDS, TUESDAY, JUNE 28.**—Lord *Lynedoch* rose for the purpose, he said, of calling their lordships' attention to a subject which had strongly arrested his own, and which he could not allow the session to pass without noticing. He had lately been down at Windsor, and had seen the improvements there carrying on. But he was surprised to see that there were many little spots of property intruding on the castle, so as to make it almost unfit for a royal resi-

dence. He had mentioned this to some of the ministers, whom he had the honour to call his friends, though he sometimes differed from them in opinion; but they had said they could not interfere to purchase such spots of ground, on account of the great unpopularity of doing so. He was of opinion, however, that as private property was frequently interfered with, in making roads, canals, &c. a bill should be passed, compelling persons, for a liberal remuneration, to give up such property as might be a real nuisance to that ancient royal residence. He did not mean to make any motion on the subject, but he could not have satisfied his feelings had he not mentioned the subject.

### *Grants to the Duchess of Kent and Duke of Cumberland.*

**COMMONS, THURSDAY, MAY 26.**—The *Chancellor of the Exchequer* brought down the following message from the crown, which was read in due form by the *Speaker*:—

"That whereas, since Parliament had made provision for the due support of her Royal Highness the Duchess of Kent, and his Royal Highness Ernest Augustus, Duke of Cumberland, the Princess Alexandrina Victoria, daughter of his late Royal Highness the Duke of Kent, and Prince George Frederic Alexander Charles Ernest Augustus, son of his Royal Highness the Duke of Cumberland, had attained such age as that it became proper provision should be made for their maintenance and education, His Majesty being desirous to grant an annuity to her Royal Highness the Duchess of Kent, and to his Royal Highness the Duke of Cumberland, for that purpose, recommended the subject to the consideration of the House of Commons, and relied upon their attachment."

The message which was also received by the Lords having been read,

The *Chancellor of the Exchequer* moved, that it should be taken into consideration to-morrow.

**LORDS, FRIDAY, MAY 27.**—This day the Earl of *Liverpool* having moved the order of the day, observed, that he would trouble their lordships with only a few words on His Majesty's most gracious message. The young princess, the daughter of the late Duke of Kent, had been left under the care of her mother under very peculiar circumstances, and no provision had yet been made for her support. Their lordships were aware, that the provision which had already been made for the Duchess of Kent did not exceed 6,000*l*. a year, and that that provision had been made without reference to any issue she might have. He was sure all their lordships would, therefore, readily concur in carrying into effect the recommendation of His Majesty's message. There never was a person whose conduct had in all respects been more commendable than that of this illustrious princess. With respect to the other royal person, for whose issue provision was proposed to be made, he wished their lordships to recollect, that since the present income of his Royal Highness the Duke of Cumberland had been settled, he had had a son, who was now about seven years of age. He was unwilling to advert to what had formerly occurred, and had caused a difference of opinion on a former occasion, but though an increase of revenue had been granted to other branches of the royal

family, his Royal Highness the Duke of Cumberland had received no addition to his income. Under these circumstances, His Majesty's ministers conceived that they were only doing their duty, when they advised the sending down a message from His Majesty to parliament, recommending that provision should be made for the issue of the late Duke of Kent and the Duke of Cumberland. All that he had now to do was to request that their lordships would agree to an address to the King, assuring His Majesty that they would concur in carrying into effect that object of the recommendation contained in his gracious message. What would be proposed was an addition of 6,000*l.* a year to the income of the Duchess of Kent, and of 6,000*l.* a year to the income of the Duke of Cumberland. Less, he thought, could not, and ought not to be given. The noble earl concluded by moving an address to the effect he had stated.

The motion for the address was put, and agreed to *nonnemine dissentiente*.

**COMMONS.**—The Chancellor of the Exchequer moved, that the house should resolve itself into a committee, in order to consider of the the King's message relative to a provision for the Princess Alexandrina Victoria, daughter of the late Duke of Kent, and the Prince Ernest Augustus, son of the Duke of Cumberland, and the message having been read, rose to bring forward a proposition upon the subject. As the House of Commons, the hon. gent. said, had never been found wanting in inclination to manifest its attachment to the crown upon occasions like the present, he should not think it necessary to preface what he had to offer, with any appeal to the feelings of hon. members upon that subject. In the year 1818, a message had been brought down from the throne, announcing the intention of his late Royal Highness the Duke of Kent to marry, and recommending that the house should take into its consideration what would be requisite for the dignity of the reigning family, and the honour of the country, upon such an occasion; and the house had then proceeded to make a grant of 6,000*l.* a year in addition to the income already enjoyed by the Royal Duke; with a further provision of 6,000*l.* a year for the Duchess, in case it should so happen that she remained a widow. That provision had been sufficient under the circumstances; but it had not contemplated the possible fact of the Duchess surviving her husband, and being left with children. Of course it would be obvious that, situated as the members of the Royal Family were, money—to use a homely phrase—would not go so far with them as it would with other people. They had a state to maintain which did not fall upon any other class of persons; and their charities, public and private, were considerable. Since this provision of 6,000*l.* a year for the Duchess of Kent had been made, the Duke of Kent had died, and a daughter had been born, who was now six years old. It could not be necessary for him, therefore, to point out to the house the propriety of giving a suitable education to a young person so situated. The position in which this Princess stood with respect to the throne of the country, could not fail to make her an object of general interest to the nation. He had not himself the honour of being acquainted with the Duchess of Kent, or her royal daughter, but as far as her education had

proceeded, he believed the greatest pains had been taken with her. She had been brought up in principles of piety and morality, and to feel a proper sense—be meant by that a humble sense—of her own dignity, and the rank which, perhaps, awaited her. Perhaps it might have been fit to have brought this matter before Parliament at an earlier period; but the Duchess of Kent had been assisted by her Royal brother. That, however, was not a way in which a public question could regularly be dealt with; and, with respect to the Duchess of Kent, therefore, his proposition would be—that an addition of 6,000*l.* a year, for the maintenance and education of her daughter, should be granted to her Royal Highness. In the next place, he would call the attention of the house to the case of the Duke of Cumberland. At the time of the Royal Duke's marriage, a proposition similar to that agreed to for the Duke of Kent, had been submitted to Parliament, but had not been complied with. There had been, the fact was, some objection taken to the marriage. The Duchess, from some cause, had not been received at Court. These circumstances had probably influenced the conduct of the house, because the only mode in which Parliament could express its disapprobation of any Royal marriage, was by withholding that provision which should be given for its support. Whatever the motive had been, the subject had been pressed a second time in the year 1818, and had failed; but Parliament had then granted, as in the case of the Duke of Kent, a provision of 6,000*l.* to the Duchess of Cumberland, in case she happened to be left a widow. Since that time, however, a prince had been born—a son of the Duke of Cumberland—who was now six years old. His position was not certainly so near to the throne as that of the princess, the daughter of the Duke of Kent; but still the country was interested in giving him a suitable education. One thing above all was desirable, that the education of both these young persons, upon every account, both moral and constitutional, should be conducted in England. His intention, therefore, was to propose with respect to the Duke of Cumberland, that 6,000*l.* a year should be granted to him for the education of his son—intending that education to be given in England. And he moved, as his first resolution, that a sum not exceeding 6,000*l.* a year should be granted to His Majesty as a provision payable to the Duchess of Kent, for the maintenance and education of her daughter, the Princess Alexandrina Victoria.

Mr. Brougham believed that the Chancellor of the Exchequer did no more than justice to the house in the character which he gave of its general anxiety for the convenience and dignity of the Crown; and if there was one point connected with that dignity, upon which the house would be more anxious than upon any other, he believed it would be upon the education of the younger branches of the Royal family. This being his own feeling, he was quite sure that he should not be suspected of departing from it, if he did not observe, looking at the first grant made, that it was at least an extremely liberal one. He did not know that he should stand up to oppose the grant, especially if he found himself unsupported; but he did think that 6000*l.* a year was rather a large stipend for the purpose to which it was to be applied. With reference to the second proposition, however, of the rt. hon. gent.—that for

the grant to the Duke of Cumberland—it became necessary for him to address a few words to the house. He by no means thought that it was on account of any circumstances in the Duke's marriage that parliament had refused to make the proposed increase, in 1818, to his income; and if it had been on that account, he should have held the vote to be one of the most indefensible that house had ever come to; because, at the time of the vote, the marriage had been contracted; and if there had been any objection, the King ought to have interfered. If the marriage was unsuitable, the Crown had power to prevent it; and that power not having been resorted to, it must be taken not to have been wholly improper. But he did not hesitate to say openly, that he believed it was not at all on account of his marriage, but on account of some dislike—well founded or ill-founded, but quite rooted in the minds of the people of England and their representatives—towards the Duke of Cumberland, that parliament had refused to sanction the grant demanded for him. Whether he himself shared or did not share in that dislike, it was not necessary for him now to say. But it was a feeling which pervaded the whole country—all classes—men, women, and children. It would be remembered that the Duke of Cumberland had already 18,000*l.* a-year, besides the 15th Dragoons. He had 19,000*l.* a-year from the country already—and he lived out of it. Why did he do this? He was not in any office; nothing called him abroad; and yet he did not live among his countrymen. Nineteen thousand a-year, let it be recollected, would go as far abroad as thirty thousand in this country; and he (Mr. B.) had no desire to grant the royal Duke 6000*l.* a-year more, until he came to show himself, with the rest of his family, in England. Why did he not spend his income here to maintain the dignity and splendour of the country from which he drew his funds (hear, hear)? What was there to prevent him? It seemed, however, that he was to send his son. How did they know that? What security had they, that after he received this additional grant, making an income of 25,000*l.* a-year, he would come and reside in England, or even send the young prince his son amongst us? We were now, it seemed, of a most plethoric habit with respect to money. It was difficult to dispose of it, and we must get rid of it in the best way we could. If such were our condition, he for one would prefer giving it to those members of the royal family who resided amongst us, and whose embarrassments seemed to require some such aid. It was well known that a certain illustrious member of the royal family was in such a state of pecuniary difficulty as to have had his carriage and horses taken in execution. Was this decent? Would it not be better, as we were so liberal of the public money, to bestow some of it on those who really seemed to stand in need of it—to give it to those who resided amongst us, and who, it appeared, could not go to a race-course without having that happen to them which would be reckoned a disgrace if it occurred to a private individual (hear, hear)? He thought the dignity of the royal family would be better consulted, by having such embarrassments removed, and such unpleasant accidents prevented in future. These were painful subjects to which to allude, but it was a duty to mention them when a grant was proposed for which he heard no one substantial argument.

With respect to the proposed grant for the due maintenance and education of the young Princess, the daughter of the Duchess of Kent, he gave it his support—not alone for the sake of the young princess, though that would be a sufficient ground; but for the sake of increasing the income of that illustrious lady, which it was admitted was too scanty. She was the widow of a prince whose loss all must lament—than whom no man possessed greater talents or greater habits of application. Those habits survived in his illustrious widow, who was eminently fitted to undertake the task she had imposed upon herself—that of the education of the infant princess.

Mr. Hume protested against the principle of the house being called upon to vote any sums for paying the debts of members of the royal family, who had already a sufficient allowance from the country. He did not object to the education of all the members of the royal family in that manner which befitted their high rank and the station they might hereafter be called upon to fill. He was sorry that the vote, as far as it respected the Duchess of Kent, had not been proposed three years ago. The grant should have been made at that time, and increased from year to year, instead of raising it at once from six to twelve thousand a year. However, he would support the grant. As to the proposed grant to the Duke of Cumberland, if he were to stand alone he would take the sense of the house upon it. After the two decisions to which the house had already come, upon the question of increased grants to his Royal Highness, after the discussions which they had undergone, and the opinions expressed with respect to his conduct, the present proposition was monstrous. Was the sum of 6000*l.* to be expended in the education of this young prince? He would undertake for 100*l.* a-year to give him a better education here than he would be likely to derive from the 6000*l.* a-year on the Continent (aye, at the new university, said Mr. Brougham in a low tone) Aye! at the new university, continued Mr. Hume. If, however, it was determined that this sum should be given, he would say, let the royal Duke come to England, and let him educate his son as an Englishman, under the public view. In foreign countries he might imbibe notions hostile to the British constitution. But the Duke ought to educate his children out of his 19,000*l.* a-year. Why, would it be believed, that the late King would make no allowance to the late Duke of Kent till he was 21 years of age, beyond 600*l.* or 1000*l.* a-year, which was doled out to him by his tutor at 1*l.* and 2*l.* at a time? The Duke of York was the first of the royal Princes for whom an allowance was granted. The Duke of Clarence did not receive any allowance till he was 18 or 19 years old. Looking at these precedents, he saw no reason why the present grant should be made.

Sir J. Cuffin said, that some allusions had been made to the embarrassments of the heir apparent. He thought it would become the ministers of the Crown to bring forward a proposition to the house for the payment of those debts. It was a fact that his Royal Highness owed a sum of 12,000*l.* to his tailor, one farthing of which he could not get. These debts ought to be paid (hear, hear, and a laugh).

Mr. Monck observed, that if what had fallen from the hon. member who had spoken last was

correct, some inquiry should be made into the subject, and if the royal Duke had not the means of paying his debts, he for one would vote that they should be paid by the country, for he wished to support the splendour of the crown in a becoming manner. The vote for the Duke of Cumberland stood on a different ground. There, would, he believed, be found no precedent for such a provision for a younger branch of their family in the houses of Austria, France, or Prussia.

Sir C. Forbes gave his support to both grants. That for the young Princess of Kent he agreed to, because he thought it was a shame the Duchess should have been left hitherto in a great measure a dependent on her relative Prince Leopold. The allowance already enjoyed by her Royal Highness was niggardly for the widow of a Prince so nearly allied to the throne. He would also support the grant to the Duke of Cumberland. It should be recollected, that he had had no increase since his marriage. He had only the same income at present as when he was a bachelor. It was objected that he lived abroad; but why was he not allowed an income sufficient to maintain his rank at home as well as his royal brothers? He was astonished to find insinuations thrown out against the royal Duke, which would be scouted in that house if applied to any other individual in the country. If there were any fair ground of charge against him, let it be brought forward and proved, if proved it could be. He was a subject, and amenable to the laws; but it was repugnant to every principle of justice to condemn any person unheard, and not only to condemn, but to punish him. He would not only support the grant, but if the forms of the house permitted, he would move that the allowance should be dated back from the period at which the addition had been made to the income of his royal brothers.

Sir J. Majoribanks said, it would give satisfaction to the country if ministers would bring down a message to the house for a grant to his Royal Highness the Duke of York, which would enable him to get rid of his pecuniary embarrassments. His Royal Highness had proved himself the soldier's friend; and his great attention to the comforts of the soldier, as well as to military discipline, had been productive of most important advantages to the army of the country. He was convinced that the announcement of such a message from the King would give very general satisfaction to the country.

Mr. T. Wilson said, the example of Austria or France, which had been quoted, was not one which should have any influence with us. He trusted that in the mode of maintaining or educating our royal princes, we should not look for precedents in any of the royal families of the Continent. An hon. member had spoken of a message respecting a grant to another branch of the royal family. He would say, that if such a message came to the house he would support it. He conceived, from all he had an opportunity of knowing of the disposition of that illustrious individual to answer the many calls made on his benevolence, that he was entitled to the support of the country, if such a proposition should be brought forward.

The Chancellor of the Exchequer thought it was too hard for those who held (what he did not admit) that his Royal Highness was unpopular in this country, to object at the same

time to his residing out of it. The fact was, he believed, his residence abroad was occasioned by the delicate state of his duchess's health, which made a resort to some of the baths on the continent necessary. On the subject of the Duke of Cumberland's present circumstances, he would not say any thing. He was not exactly acquainted with his affairs. He believed, however, that some time ago they were in a state of considerable embarrassment. This, perhaps, would not be surprising, when one recollected that the habits of young Princes, destined to move in such high stations, were not those which led to the most prudent regard to economy.

Mr. Peel, alluding to the thin state of the benches opposite, observed that they were nearly empty, because hon. members felt that the proposition of his rt. hon. friend was a fair one, and ought not to be opposed. Upon the first proposed grant—that to the Duchess of Kent—there seemed to be but one opinion; but on the second, there was an objection—that the house had already refused a similar application. The refusal, he contended, was founded on objections to the marriage of his Royal Highness; but since then he had had a son born to him who might hereafter succeed to the throne of these countries. His case, therefore, was different now from what it was then. But the hon. member for Aberdeen, it seemed, was not disposed to allow any sum for the education of the young prince. At least, he would limit it to 100l. a year, and that in the intended London University, where he might share the education of mechanics. He was rather surprised that, as the hon. member was disposed to favour a cheap mode of education, he did not point out another university, of which he was the learned rector, and where it might be had on terms equally reasonable (hear, hear). As to the general question, he thought it would be but fair to place the Duke of Cumberland on the same footing with his Royal brothers who were married. They who objected to the residence of the royal duke abroad ought to support this motion, because the proposed grant would remove one objection to his not coming to live in England—namely, that his present allowance was not adequate to support his rank in this country.

Mr. Denman observed, that the house ought to pause seriously before they agreed to a proposition of this kind. It was an example which would be readily followed in other instances. They had already, even since the commencement of the debate, witnessed the effect of such a motion. No sooner was it proposed, than one hon. member stepped forward and declared, that he would not only vote the grant, but also vote it for all the years since an addition had been made to the income of the other members of the royal family. Another faithful guardian of the public followed up his declaration in support of the motion with another, in which he suggested the propriety of paying the debts of the Duke of York, whom he seemed to think the most popular man in the country; and, as one item of those debts, a gallant admiral informed the house that the royal duke owed no less than 12,000l. to his tailor; so that, because of this gross extravagance, which would not be countenanced in a private individual, the country was to be plundered, and asked to make good debts to he knew not what amount. An expenditure exceeding income was any

thing but a claim to the favourable consideration of any man or body of men. Every man ought to be able to calculate his income, and to regulate his expenses by it; and an individual whose income from the country was exceedingly liberal, had no farther claim if he allowed his expenses to go beyond it. He could not consent to see the public thus plundered without mercy and without shame. He fully concurred in the vote to the Duchess of Kent, but when called upon to vote 6,000*l.* a year for the education of a young prince, whose father was receiving 19,000*l.* a year from the country, he was compelled to pause. He was not indifferent to the proper education of those princes who might hereafter succeed to the throne of these realms; but it did not follow, that the education was to be good in proportion to the thousands which might be paid for it. Even after this sum should be voted, what security had they that the object for which it was given would be attained, and that the young prince would be sent for his education to England?

Mr. Canning said it was unfair to introduce subjects not at all connected with the question before the house. It was unfair to argue hypothetical cases, and to say what answer ought to be given to applications never made, and which never might come before the house. For it should be borne in mind that the illustrious individual whose private affairs had thus been dragged into discussion, had not obtruded them on the house. Whatever they were, he kept them to himself. He had made no claim; he had not in any way pressed his circumstances on the notice of the house or the public (hear, hear). One learned gent. (Mr. Brougham) stated a case hypothetically, and said he would rather pay the debts of his Royal Highness the Duke of York, than consent to the proposed grant to the Duke of Cumberland. On this hypothesis other hon. members spoke, and introduced the character and conduct of the illustrious duke (of York) into the discussion. This, to say the least, was not fair dealing, and most certainly was foreign from the question before the house. There were two propositions before them. As to the first, it would almost be a waste of words to add any thing to what had been already said on it; for there was only one feeling,—that it was a tardy act of justice to the illustrious lady who was in great part its object (hear, hear). If there was any blame to Government, it was in not having introduced the subject before (hear). If any thing could be added to the praise of her Royal Highness, it would be, the notice of her mild, unassuming demeanour: she was never heard, never seen, but was constantly employed in superintending the education of that infant, for whom these realms might be destined (hear, hear). As to the vote to his Royal Highness the Duke of Cumberland, he wished to have it considered what it was in fact—a grant for the education of the young prince, his son. It was objected to it, that after the vote passed, the object of it might be defeated by delaying the return of the young prince to England; but ministers would have it in their power, to see that the money was applied solely for the purpose for which it was voted. It was said that the house had already twice decided on this question. They had decided on the proposition of a grant, but not a grant on the grounds now advanced.

The principal objection on the first occasion was to the marriage of his Royal Highness; and on the second occasion the same ground was taken. It was objected now, that the Royal Duke continued to reside in a foreign country, and it was at the same time said that there was a lurking dislike to him in this. Surely, if the latter assertion were true (which he denied), it was cruel to make his residence abroad an objection. But he did not reside abroad from any dislike to his country, or from a consciousness of being disliked in it. One reason why the Royal Duke resided in the country of his wife's relations was, that he had not the means of supporting himself and his family with comfort in England. The first pride of his heart, if he could have accomplished it with any degree of comfort to himself and his Royal consort, would have been to live in the country in which he drew his birth; but as he was not able to do so, it was not unnatural that he should seek in her country, among her relations, those enjoyments which his fortune would not enable him to obtain in his own. The Royal Duke had now a child who was six years old, and therefore of an age when his education became a matter of importance. If there were any reasons which compelled the Royal Duke to reside abroad, as was insinuated, it was only fit to rescue the child, who might be the future King of England, from the sphere of their influence. He contended that the contingency to which he had just alluded was a sufficient reason why Parliament should secure the education of the Prince of Cumberland in this country. With regard to the securities which had been demanded for the child's education in England, he thought that they were to be found in the responsibility of ministers, who were bound to see the grant applied as the resolution of the committee directed.

The first resolution—that of providing for the Princess Victoria of Kent—was then put from the chair, and passed *nomine contradicente*.

On Mr. Brogden's putting the second, providing for the education of the young Prince of Cumberland,

It was then proposed as an amendment that the words "in Great Britain" be added to the resolution.

The *Chancellor of the Exchequer* strongly objected to the amendment after the unequivocal assurance he had given on the part of government, that the money was *bonâ fide* intended for the education of the child in England, and in England alone. Unless the house had any suspicion that he intended to deceive them, the amendment was unnecessary. It would imply a doubt in the assurances of government. Besides, he wished to put it to the committee, whether the Duke of Cumberland, with a knowledge of what had passed on the subject, would risk the loss of this grant by educating his son abroad. Even if the Royal Duke should determine to educate the young prince on the continent, parliament would at all times hold in its hands the means of recalling him to his duty; it could either address the crown to withhold the grant, or repeal the bill by which it was placed at the crown's disposal (hear).

Mr. J. P. Grant had no doubt that the *rt. hon.* gentlemen opposite would fulfil the pledge they had just given to the committee, as far as they themselves were personally concerned; but then they ought to recollect that they were

not quite certain of retaining their places as ministers for ever (hear). They were, it was true, very likely to retain them for the term of their natural lives (hear); but still there were circumstances which might by possibility displace them (hear). The committee ought not to be satisfied with the pledge of any ministers, however respectable, who had not a sort of prescriptive right to their situations. But they were told that it was in their power to retract their present vote, if the Duke of Cumberland did not give his child that education in England to which the ministers had pledged him. Now, supposing the Duke of Cumberland should refuse to redeem the pledge which ministers were making on his behalf, what proof of that pledge could any man find in the journals strong enough to form a parliamentary ground for the repeal of the bill which was to be brought in upon the present resolutions (hear)? He therefore thought that any words, declaratory of the intention of the committee to appropriate the sum of 6,000*l.* a-year to the education of the Prince of Cumberland in this country, would be highly proper and expedient, and ought to be inserted in the proposed resolution. If they were not so inserted, no words uttered by any minister in that house could be considered binding either on the Duke of Cumberland, a future minister, or a future and a different House of Commons.

Mr. *Huskisson* contended that if the amendment now proposed were agreed to, it would become part of the law of the land, and the young prince could not be removed for any purpose from the country without the leave of parliament. If he left England, the officers of the Exchequer would be no longer justified in paying to his father any part of this allowance. Now, suppose that it were thought an advisable object at some future period to send this prince abroad, either for the good of his health, for the benefit of his education, or for fleshing his maiden sword on the enemies of his country, that object could not be accomplished, if the present amendment were agreed to. It was said that the pledge of ministers was not sufficient, because there was no certainty that they would always continue the same. He thought that argument of little weight, when it was considered that though the ministers might be different, parliament would still continue unchanged. He had little doubt that if the prince were to reside long abroad, or that if his education were to be conducted there upon principles which the country could not approve, parliament would feel it to be its duty to interfere with promptness and decision to procure an alteration in such a system. Though he was as anxious as any gentleman who supported the amendment, to see the object of the grant faithfully executed, he thought the amendment unnecessary, after the pledges which had been given.

Dr. *Lushington* contended that this resolution was meant to give 6,000*l.* a-year by a side-wind to the Duke of Cumberland, when he could not obtain it by a direct measure from parliament. He begged the house to observe, that the Duke of Cumberland had now 19,000*l.* a-year; the Duchess of Kent only 6,000*l.* and they were both to have an additional 6,000*l.*, making the income of the Duchess 12,000*l.*, and the Duke 25,000*l.* But was not the Duke quite as well able to educate his son on 19,000*l.*

as the Duchess of Kent her daughter on 12,000*l.*, and this child nearer the throne than the Duke's son? He might continue to reside abroad, and not return to the country where he drew his breath, and whence he drew his revenue. It was probable that he wished to remain abroad, and he (Dr. L.) would not give one shilling to bring him back. He would vote for the grant if made to secure the education of the Prince in Great Britain: 6,000*l.* was the utmost extent of parliamentary liberality on such an occasion, and he thought parliament ought to secure its proper employment. If the words "in Great Britain" were not continued in the resolution, he would oppose it with all his might.

Mr. *T. Wilson* supported the amendment, as he thought that the committee ought to fix some determinate object to which the grant should be applied. If they did not, they would, in his opinion, stultify themselves; for they would act as if their former vote with respect to the Duke of Cumberland was wrong, without being able to produce any proof that their present vote was right.

Mr. *C. Wynne* thought that he was not inconsistent in rejecting this amendment, and voting for the original resolution, though he had opposed both in 1815 and 1818, the proposed augmentations to the Duke of Cumberland's income. At the time those propositions were under discussion, it was stated that if there should be any issue to the marriage of his Royal Highness with the Princess of Salms, parliament would be bound to make provision for it. That pledge, he conceived, parliament was now called upon to redeem. He contended; that the committee would not have any better security by inserting the words "in Great Britain" in the resolution than it now had without them; for a future parliament would be enabled to alter any bill they might now pass. The education of a child ought, in most instances, to take place under the eye of the parent. It would be wrong to weaken the tie between them, except under cases of strong necessity. He allowed that parliament had the power of interfering to dissolve such tie in the royal family; but he confessed that the exercise of it on this occasion appeared to him to be both unwise and unnecessary. After the debate of that night, could any man doubt that the education of this child would take place in England?

Mr. *Peel* suggested, that the object of securing the education of the child in England could be as well secured by inserting a declaratory sentence on the preamble of the bill, as by adopting the proposed amendment of the resolution, which would not be a respectful course to the crown.

The committee divided on the first amendment, when the numbers were—For it, 64—Against it 79—Majority against the first amendment, 15.

The committee then divided on the original resolution, when the numbers were—For it, 105—Against it, 55—Majority for the original resolution, 50.

MONDAY, MAY 30.—The report of the King's message having been brought up, on the motion of the *Chancellor of the Exchequer*, the resolution was read, "That there be granted out of the consolidated fund, a sum not exceeding 6,000*l.* a-year to her Royal Highness the



Duchess of Kent, for the purpose of enabling her Royal Highness to make a suitable provision for the education of her Highness the Princess Alexandrina Victoria of Kent."

Mr. *Hume* wished to ask, as in a former stage of this debate, whether, in the event of the death of this individual, the young princess, the vote just proposed would be continued to her mother (hear, hear).

The *Chancellor of the Exchequer* was understood to answer, that from motives of delicacy he had not contemplated such an event in the vote.

Mr. *Hume* observed, that when upon a well-known occasion a yearly sum of 50,000*l.* was granted by a former Parliament, a proposition, he knew, had been suggested, but not regularly brought forward, to meet a contingency somewhat similar. He could not but think it would have been much better had Parliament so framed that grant, as to put the distinguished individual Prince Leopold, in such an event, in the same situation as any one of the other princes, instead of assuring to him the perpetual income of three (hear, hear).

The resolution was read a second time, and agreed to.

The next resolution proposed was—"That there be granted to his Majesty out of the consolidated fund, a sum not exceeding 6,000*l.* a-year, for the purpose of enabling his Royal Highness the Duke of Cumberland to make an adequate provision for the suitable maintenance and education of his Highness Prince George Frederick Alexander Charles Ernest Augustus (laughter) of Cumberland."

Mr. *Hume* proposed to negative the resolution (hear, hear). Of all the measures which had been undertaken by the present administration, none could possibly have given less satisfaction to the country at large than this was calculated to do—this shameful waste of the public money (hear, hear). Waste of the public money he must continue to call it, seeing what must be the ultimate destination of the money, and that at the same time it was asked for by his Majesty's ministers, even the stipulation for the education of the boy in England was refused (loud cries of hear, hear, and no). But he contended that the fact was so: it was evidently the intention that he should not be educated in England, for upon what other ground was the opposition made to the amendment of the *rt. hon. bart.* to be accounted for (hear, hear)? The amendment of Friday evening having been rejected, he conceived it was evident that this allowance was not intended for the young prince's education, but for the Duke himself (hear, hear). The Duke received an income from the public of 19,000*l.* a-year, the greater part of which he had for some time expended on the Continent; and an income of 19,000*l.* sterling per annum was equal in Prussia or Hanover to an income of 30,000*l.* in this country. Could there be on the part of the Duke or his Majesty's counsellors, who had advised an application like this, the least disposition to economize, when the public had been refused by them the smallest reduction of the taxes, because it was said they could not advise or sanction the diminution of the existing revenue by such reduction (hear, hear). And yet, in the same breath as it were, and by the same set of men, the house was now called upon to make an additional charge of 6,000*l.* a-year on the consolidated fund for purposes and inte-

rests of this nature. His Majesty's ministers had, on this occasion, come down to ask what had never been asked of that house before (hear, hear.) Let them point out when it was that for the education of a boy not six years old, 6000*l.* a-year had been asked for (hear, hear)? He could discover no such allowance to have been ever made to the late king's sons for such a purpose as that suggested by this resolution, even at periods when they were further advanced in life. The Duke of Gloucester formerly stood in the same situation with respect to the degree of his succession to the throne as the infant Prince of Cumberland stood in now. In the year 1767, in consequence of a message from the crown, Parliament granted to his late Majesty's three brothers, the Duke of Gloucester, the Duke of York, and the Duke of Cumberland, 8,000*l.* a-year each. But soon after the birth of the present Duke of Gloucester in 1776, in consequence of another message from the crown, Parliament settled upon him, then Prince Frederick, 8,000*l.* a-year; and on his sister, the Princess, 4,000*l.* a-year "upon the death of their father." The allowance of 8,000*l.* a-year each, that had been made to the King's three brothers in 1767, was increased, but not until 1785, to 9,000*l.* a-year. It was therefore clear that the late Duke of Gloucester had educated and maintained his son out of his annuity of 9,000*l.* a year, without any additional allowance; the 8,000*l.* a-year not having been paid until after his death to the present duke (hear, hear). When he (Mr. *Hume*) remembered the last divisions which had taken place in that house on the subject of the Duke of Cumberland he could not help asking what had that individual done since, to gain the good will of Parliament (hear)? Was it because his son stood sixth or seventh from the throne, that Parliament was to be called on to alter the wholesome precedent it had formerly observed, in its grants, of making every man support his own family out of the allowance made for him by his country (hear, hear); and of requiring that every man should shape his expenses according to that allowance, without coming upon the nation to ask for additional means (hear, hear)? It had been said, that to the late Princess Charlotte of Wales, this house had granted a separate maintenance. She, however, was at that time the heiress presumptive to the crown; and it was on that account Parliament made such a grant. Parliament was asked by the present vote to put the sixth or seventh in succession on the same footing with the presumptive heiress to the crown (hear). On all these grounds, it seemed the best course to him (Mr. *Hume*) to put a direct negative on the resolution (hear).

The *Chancellor of the Exchequer* said, if it had been the pleasure of that house, on a former occasion, to increase the allowance of the Duke of Cumberland in the same way as it had increased the allowances of all the other branches of the royal family, it would have been needless on his Royal Highness's part to have asked, now, for an addition to that allowance by reason of the birth of a son. It would be recollected, however, that the Duke of Cumberland did not obtain the same increased allowance when his marriage took place; and, therefore, his was quite a different case (hear, hear). His Royal Highness having since had a son born to him, there was, surely, nothing in-

jurious to his character in the proposition now made for an allowance to him on account of the education of that young individual. But the hon. gent. seemed to be exceedingly displeased that government should propose for the education of the young Prince of Cumberland the same allowance as for the young Princess of Kent; and the hon. gent. contended that there ought not to be this equality of allowances, because the parties themselves did not stand in the same degree of relationship to the crown (hear, hear). This objection, however, was a little inconsistent in the mouths of the hon. gent. and his friends; because, when on a former occasion it was proposed to make some difference in the allowances to the children of the Dukes of Clarence and Kent, because of the greater proximity of the child of the Duke of Clarence to the throne, the gentlemen opposite would not allow that argument to avail at all; and either by a specific vote, or by agreement, they reduced the original resolution of 10,000*l.* on that occasion to 6,000*l.* In now proposing 6,000*l.* on the other hand, for the maintenance and provision of the Prince of Cumberland, it did not appear to him (the Chancellor of the Exchequer) that government were only following the example which had been already set them by parliament. With regard to what the hon. gent. had said about the education of the child, he (the Chancellor of the Exchequer) had, on a former night, most unequivocally declared—not only that this 6,000*l.* a-year would be for the education of the boy, but that he would be educated in England (hear, hear). He now repeated that expressly; and though he did not feel justified in agreeing off hand to the amendment which was proposed by the rt. hon. bart. (Sir J. Newport); yet he had no difficulty in saying, that if an amendment were now proposed with the purpose of providing for the prince's education in this country, he would not object to it (cheers). On the former evening some hon. friends of his had intimated that such an amendment might be introduced into the bill to be founded on these resolutions by way of preamble. This seemed the only difficulty on this part of the question—how to bring it in? He would only say, that he would be quite willing to insert any words in this way which would give a positive pledge and assurance to the house that this young person should not be educated abroad, but in England. This was the real object of the bill (hear). But in bringing it forward it had not been considered proper to wound the feelings of the parents. Whatever impressions might be entertained with respect to that illustrious duke, hon. gentlemen would recollect that a resolution of this kind, accompanied with such a condition, involved the possible separation of father and child. Gentlemen talked of expatriating the Duke of Cumberland, as if it were quite a matter of course; and an hon. and learned civilian the other night had even gone the length of saying, not only that he would not do any thing to induce the Duke of Cumberland to return to this country, but that he would do every thing to keep him away (hear, hear). To hold language of this kind was really to display very little feeling for the illustrious party to whom it referred. Such a course of proceeding, indeed, might terminate in the actual and perpetual separation of the father from his child. If this

money was to be granted at all, it must clearly be granted in the way proposed; because to say that the father should have nothing to do with the child's education, and no control over the application of the money proposed to be given, would be a course that he (the Chancellor of the Exchequer) should exceedingly regret to see the house adopt. At the same time, he had not the slightest objection, nor could his Majesty's government feel any, to incorporate into an act of parliament any word that should be thought to comprise the surest guarantee for the education of the child in England (hear).

Dr. Lushington: On a careful consideration of all that had passed in the debates of 1815 and 1818 about the Duke of Cumberland, he had come to a decided opinion, that on those occasions the House of Commons was, in all its views and proceedings, perfectly correct (hear). He trusted, therefore, that this house would not now retrace its steps, and by consenting to this allowance of 6,000*l.* a-year for the education of the young person in whose favour it was said to be called for, deny, in reality, the principles upon which they had formerly acted; and carry into effect a proposition which on two occasions they had so properly rejected (hear, hear). He ventured to say, that never had an occasion presented itself on which the feelings of the country were more completely in unison with those of the house than on those occasions. If this were so—if the house were not prepared to retrace its steps—if they were not about to make a grant upon entirely new principles, and for as entirely novel purposes, let them first consider what grounds of necessity were laid for this grant. And when that necessity should have been ascertained, let them take especial care that the resolution, and the act to be framed on that resolution, were expressed with sufficient clearness to carry into complete effect that which was now stated to be the real object of the resolution. And first as to the necessity for the grant (hear). He protested that on the present occasion he did not think any satisfactory ground of necessity had been laid by the rt. hon. gent. opposite. Not that he thought the sum itself was matter of any very serious consideration. But the precedent of such a grant was in itself a very dangerous one, and it might lead to consequences mischievous in the extreme. The duke of Cumberland had already allowances enough to discharge all these duties of education, if he were disposed to discharge them (hear). Now let the house inquire what the Duke of Cumberland had done to merit this grant. The hon. gentlemen on the other side of the house had not denied, that the Duke of Cumberland meant to take up his residence abroad (hear). But he had a duty to perform in England (hear, hear), both to his country, and as a father to his child. He ought to have endeavoured to perform it; he should have seen whether it was not possible to maintain and educate his son out of the means he already possessed, without resorting to the house for further means; he should have honestly attempted to make his income meet his expenses; and then, if, after an experiment of this kind, fairly and honorably made, if after doing all that lay in his power towards the education of his child, he had found it impossible to go on without additional assist-

ance, he might have come to Parliament with a strong claim, not to say on its generosity, but on its justice (cheers). But the Duke of Cumberland still remained abroad; until he should have returned to this country—until he should have shown himself willing to discharge the duties that he was bound to discharge, he (Dr. Lushington) must think it would be premature to come to any vote at all. How came it, that the Duchess of Kent, with her 12,000*l.* a year, would be able to provide for her young daughter who was so near in succession to the throne, to maintain her rank and state on their present footing, and to provide all the education suitable to that daughter, while the Duke of Cumberland was incapable of managing the same duties with 19,800*l.* a year (hear, hear)? Surely here was a gross inconsistency at the outset. But let them suppose the Duke of Cumberland to have made out his case, and the house to have voted the money, in whom would be the management of the young prince, and of this sum (hear)? Would it be in the Duke of Cumberland or in the King? The *rt. hon.* the President of the Board of Control, had stated on a preceding evening, that the King was invested with the guardianship of grandsons in succession to the throne; if the King were entitled to have the control and education of the young Prince of Cumberland, of what absurdity was the house about to be guilty, in voting 6,000*l.* a-year to the Duke of Cumberland, for the professed purpose of exercising that management which the law confided to the King. They would thus be separating the duty from the consideration paid for its discharge. Let the house take the reverse of this statement. Suppose the King were not entitled to superintend this young Prince's education, would it not be proper to give His Majesty power to do so (hear, hear). When the *rt. hon. gent.* opposite refused to say whether the Duke of Cumberland was about to return to England or not, was it not high time that Parliament should strengthen the hands of the King, and give them something like the ability to control the education of this Prince? Whether by the existing law the King could or could not exert such control, it was obviously of the last importance that this grant should be so worded as to enable the King to exercise so salutary an authority. Upon these grounds he would propose as an amendment, that the words "His Royal Highness the Duke of Cumberland" be omitted; and that at the conclusion of the resolution there should be added these words, "the United Kingdom" (hear). He could see no reason, if the house thought proper to pass this grant, why they should not secure, to the utmost, the fulfilment of their own intentions. On referring to the discussions about the Duke of Cumberland in the year 1818, he found that the late Marquis of Londonderry used these very expressions:—"that as to that vote of 6,000*l.* per annum to the Duke of Cumberland, which had been negatived in the year 1815, he did not consider that the opinion of Parliament had been sufficiently recorded by it" (hear, hear). Now, if the late Lord Londonderry thought that the opinion of Parliament was not sufficiently evidenced by the vote just referred to, he (Dr. Lushington) called upon *hon. gent.* seriously to consider whether the opinion of the house could be sufficiently recorded by the mere assertion of the *hon. gent.* opposite, as to the object of this resolution, and of which assertion,

sincere as it undoubtedly was upon the lips of the *rt. hon. gent.*, the *rt. hon. gent.* himself could not possibly undertake for the strict performance (hear, hear).

Mr. Creevey could neither assent to the original motion nor to the amendment. During the whole time he had sat in Parliament he had never witnessed so gross an outrage upon the public as the present attempt to take 6,000*l.* a year out of their pockets. The Duke of Cumberland had twice applied to Parliament, and he had been twice refused: and this was nothing less than a repetition of the attempt to get the same sum for him under false pretences. It was a gross and scandalous outrage upon the public. Six thousand a year for the education of a child six years old! Was ever such a thing heard of (hear, hear)? The grant to the Duchess of Kent was brought forward for no other purpose than that of making the grant to the Duke of Cumberland somewhat more palatable. The Duchess was no party to the present proposition, nor had she expressed any desire that such an application should be made. The real object of this proposition was to obtain from that house what they twice before deliberately refused; and it would be a lasting disgrace to the house, if they assented to it.

Sir G. Rose said, that having lived for some years so near to the person of the Duke of Cumberland as to enjoy perfect opportunities of ascertaining his character, and observing his conduct, he could not remain silent during the present debate. With respect to the absence of the Duke of Cumberland from England, that, it must be remembered, was in consequence of the treatment he had received here. It was impossible for any person to find himself the object of universal dislike, and to be commonly treated with disrespect, and even insult, which he knew were undeserved, but which he had no means of preventing, and yet still to subject himself to the constant repetition of the insults which were directed against him. His acquaintance with his Royal Highness had continued for about four years and a half. He had never known any man behave upon all occasions in a manner more becoming his station, or with greater kindness and consideration to all who were about him. During his residence at Berlin he had opportunities of constantly observing the Duke in his family, and he must say that he had never seen a more affectionate parent, and that the child, the subject of the resolution before the house, as far as from his age he was capable of manifesting it (a laugh), seemed to return that affection.

Sir W. Congreve said the Duke of Cumberland was remarkable punctual in the payment of his debts.

Mr. Alderman C. Smith supported the resolution, and complained of the cruel insinuations which had been made against his Royal Highness, and which he said had driven him from his native country.

Mr. Peel could not concur with the *hon. gent.* who regarded the resolution before the house as an attempt to redress an injustice which had formerly been done. The proposition came simply upon its own grounds, and so material a change had taken place, that the house could consistently agree to this, even though it were convinced that the grounds of its former refusal were correct. The way in which it had been put by a learned *gent.* opposite was,

go thought, a fair one. First, was this vote necessary—and secondly, what was the proper mode of making it secure? The hon. member for Montrose (Mr. Hume) said, that every man was bound to educate his own children. As applied to private life this was quite true; but in the case now before the house, the interest the state had in this child made its education a matter of national importance; and since we thought fit to take upon ourselves the burden of that education, we had a right to require, if we saw reason, that it should be carried on in England. It had been insinuated that as the Duchess of Kent found her allowance of 12,000*l.* per annum sufficient, that of the Duke of Cumberland, amounting to 19,000*l.* was more than enough. But when this came to be more coolly considered, it would be seen that the situation of the Duchess, being a widow, and leading a retired life, was very different from that of a prince, who had a wife and family, and a station to keep up which his habits and his rank rendered necessarily much more expensive (hear). It was asked why the Duke of Cumberland did not come home; but when the manner in which his name had been introduced into the discussions of that house in the year 1818, and the allusions which had been then made (and which he believed were now regretted) to the person who stood in the relation of his Royal Highness's wife, were recollected, it would not be wondered at that he should choose to reside abroad. It was in every way proper that his Royal Highness's son should be educated in England, and the house ought to require some more valid security than the word of a minister for that purpose. To effect this, the best means would be by some proviso to be inserted in the bill, to be founded on the resolution recording the sense of the house. For the words in which it should be expressed he was indifferent, provided they did not imply that the Duke of Cumberland was not worthy to be intrusted with the education of his own son, but merely that it was thought expedient that one who might hereafter be the monarch of England should receive his education in that country, the destinies of which he might one day be called to direct (hear).

Mr. Brougham could not avoid explaining the grounds on which he had given his vote on a former evening. In the first place, the observation which had been made, that a father had a right to direct the education of his child in the way he thought best, was only true when that father paid for the education of the child. The difference between that case and the one now under discussion was so obvious, that he was sure he need say no more about it. With respect to the terms of the grant, all were agreed to-night; and this good, at least, had grown out of the former discussion. If the grant were really to be made, he should not object to those terms; but he was prepared to oppose it altogether; and in this opposition he hoped he should receive some support. He had been told that such applications were matters of ordinary practice. Now this was of too much consequence to be passed lightly over, since it might hereafter be reduced to a general rule, that as often as any Prince or Princess should be born, to any one connected with the Royal Family, the house should be called upon to provide 6000*l.* a-year. The last instance which there had been of such an application, was altogether dif-

ferent. It was made on behalf of the Duke of Gloucester, whose life had been invariably respectable, and who had never been in any pecuniary difficulties; but that was a prospective provision made in the life-time of the late Duke, and no additional sum had been asked on the birth of the present Duke, or of the Princess Sophia of Gloucester. Was the house now to turn over a new leaf, and to provide a large annual sum for the education of the child of a member of the Royal Family, whose income at present was 19,000*l.*, exclusive of the emoluments which he derived from his military and other appointments? He would put it to the house, therefore, whether they were now to understand, that immediately on the birth of a child to any Princess of the Royal Family, they were to be called upon for a grant of 6000*l.* a year? The case of the Duchess of Kent had been alluded to as a precedent, but it was only a part and parcel of the present case. He understood that the Duchess of Kent, to her infinite honour, and with the assistance of Prince Leopold, who contributed out of his large resources, had no intention of making any demand upon Parliament; and that in point of fact, no proposition had been made from them (hear, hear). It was unfair that the Duchess of Kent should thus be put in front of the request, as if it had originated with her, when it was known that she did not ask it. He reprobated the abuse of confidence manifested towards the people, when that grant was set down as necessary to support the dignity of the Royal Family.—But the sure way for the Royal Family to preserve its dignity, was by preserving the respect of the people. For these reasons he should oppose the grant on general views—for however unpopular a Prince might be, until he did something to stigmatize his own character, he was to be considered in his relation to the State, and respected accordingly—he should oppose the grant, because he was unwilling to give indirectly what he had refused directly. One word he had to say with respect to the education of the child. He should be the last man that could wish to tear the child from its parents; it would be a gross inconsistency in him if he were to attempt to recommend it; for he had objected to the measure of tearing the late Princess Charlotte from the parent to whom she had been most attached; and as he had objected to it in that case, so would he in the case of the child of the Duke of Cumberland (hear, hear).

Mr. Canning said, that the vote now proposed was not for the benefit of the Duke of Cumberland, nor had it reference to any former decision of the house. It merely contemplated the fact of his having a child, who was now at a period of life when it became necessary to provide for its education—a question in which this country ought to be considered as having an interest. The whole house, he was sure, would agree that the Duke of Cumberland's child—in consequence of his relation to the throne—ought to be provided for, and educated in England. It was plain that the people of this country had a right and an interest in looking after the education of the child, and providing that it should not be a foreign one. If the grant were made upon that ground, it would afterwards be at the option of the parent to return to England with this child or not, as he might think proper. By leaving him that option they would avoid the unkindness of interfering harsh-

ly. The whole case appeared to him to rest in a very few words; and as for the Duchess of Kent, he particularly wished that mention should not thus be made of her, because to become the subject of discussion, would be repugnant to that unobtrusive delicacy, which rendered her an ornament to her sex and station.

Sir F. Burdett said that when he came down to the house, he supposed that the only question which was to be decided, was whether or not the Duke of Cumberland should have 6000*l.* added to his income; or, in other words, whether that should be now done indirectly, which the house some years ago refused to do, when it was directly proposed to them. Had that been the case, he should have been placed in the situation of running the risk of incurring the disapprobation of the *rt. hon. gent.*, who seemed to think that to advert to the character and conduct of the Royal Personage in question, if not absolutely unparliamentary, was, to say the least of it, highly improper. As, however, the question was placed altogether on a different footing, he felt greatly relieved; and was very much satisfied to find that he could do his duty to the people and to the country, without any invasion of those feelings, which, had the case been otherwise, he should have been called upon to disturb. It was probable that the proposers of this grant, perceiving the reluctance of the house to assent to it as directly to the Duke, had the discretion to change the tone of their application, and to alter the object to which the grant was to be applied. Whatever might be the cause of the change, the house were now told that the grant was required not for the purpose of putting so much money into the pocket of the Duke of Cumberland, but on public grounds, in order to insure a proper and a domestic education to a young Prince, who at some future period might possibly be called to the throne. Now he could not comprehend how it was possible that 6000*l.* a year could be required for such a purpose, for an infant six years old. Nothing could be more injurious to that infant, and nothing could in its consequences be more mischievous to the public, than to surround a child of that age with all the folly and expence which an income of 6000*l.* would furnish. Such a proceeding (and history bore out the assertion) was calculated more than any other to render him unfit for the throne, should future contingencies call upon him to fill it. If this royal child were in the country, the best education that could be given him was merely that which was usually given to the children of persons of rank. To surround him with a kind of little state would be so injurious, that he (Sir F. Burdett) would rather consent to let the money go into the pockets of the father, than that the child should be spoiled by such a course of education, and rendered unfit to exercise the regal function. As to the delicacy about removing the child from the guidance of his father, he thought that the nicety upon that point was a good deal over-rated. If the law gave the Crown a power over the education of the King's grandchildren, and the child in question was treated and provided for in the same way, he could not see how the father could object. He objected, however, more decidedly to the vote before the house, because it had been introduced under the mask of a similar vote to the Duchess of Kent, who neither asked

for such a grant nor needed it. In his opinion, the best course would be to negative the vote altogether.

The Chancellor of the Exchequer said, that with reference to the Duchess of Kent, a question had been put to the late Lord Londonderry, immediately on his Royal Highness the Duke's death, whether it was proposed to make any addition to the income of the Duchess. The reply then given was, that at the time it was not considered necessary, as the Duchess was assisted by her Royal brother; but such a state of things, the house must perceive, could never have been contemplated as permanent.

Mr. Brougham rose, amidst loud cries of question, to suggest whether it would not be better for his learned friend (Dr. Lushington) to withdraw his amendment, and let the question be put at once to negative the grant. He suggested this, because he took all parties to be agreed as to the necessity of the education being in England, if the vote were carried.

The house then divided, when the numbers were—For the grant, 130—Against it, 97—Majority, 23.

While strangers were excluded.

Mr. Brougham gave notice to the house, that on the constitutional grounds which he had stated as well as because he perceived a disposition in the house to take advantage of a temporary and accidental coolness on the part of the people respecting questions of economy, and a tendency to spend the people's money as if they were never more to be in want of it, he should continue to give the measure his strenuous opposition (loud cheers).

THURSDAY, JUNE 2.—The Chancellor of the Exchequer moved the second reading of the Duchess of Kent's annuity bill.

Mr. Lylester did not object to the substance, but to the manner and form of this bill. The Duchess of Kent had been spoken of during this debate, and he made no doubt, with the utmost justice and propriety, as a most exemplary and meritorious woman; in short, in the most respectful and honourable terms. But the bill itself, in that case, seemed wanting in respect to her Royal Highness. If it were as respectful as it should be, it would have given 4,000*l.* or 5,000*l.* a year to her Royal Highness, and 1,000*l.* or 2,000*l.* a year to the royal infant. It was, in fact, quite clear, under the circumstances, that after all, 4,000*l.* or 5,000*l.* of this vote, was intended for her Royal Highness; but why was not this acknowledged and rendered apparent on the face of the bill? Why was not so proper an object effected openly and undisguisedly (hear)?

The question was then put from the chair; and the second reading was agreed to without a division.

The Chancellor of the Exchequer then moved the second reading of the Duke of Cumberland's annuity bill.

There being several dissentient voices on the proposition being put by the Speaker, a division took place, when the numbers were—For the second reading—Ayes, 59—Noes, 49—Majority, 11.

MONDAY, JUNE 6.—The Chancellor of the Exchequer moved the order of the day for the house resuming itself into a committee of the

whole house on the Duke of Cumberland's Annuity Bill.

On the motion "that the Speaker do leave the chair,"

Mr. *Brougham* rose to propose an amendment which rested on grounds so simple, so obvious, so evident, that it only required to be stated in the shortest possible way. They were not now called on to object to this grant, or to agree to it, on account of the adequacy or inadequacy of what was formerly voted (hear). The question stood upon its own substantive merits; those who thought the former grant too little, were not precluded from increasing it now, in consequence of the vote given on a previous occasion. But the mode at present taken to effect that object was one of which he never could approve. The liberal, frank, candid, and honest way of proceeding was, to move distinctly for an alteration of the former vote (hear, hear). No attempt had hitherto been made to alter that vote of the house. If any gentleman thought it an improper vote, why not move that it should be rescinded (hear)? If any member were of that opinion, let him, in God's name, stand up and say so (hear). He did not believe there was a gentleman in the house who entertained any such opinion (hear). But he would say, let no man now vote for the Duke of Cumberland, by a side wind, in opposition to his former vote (hear). Let him not, by voting a grant for the child of the Duke of Cumberland, negative his former vote, and make a provision for the Duke of Cumberland himself (hear). He felt he should be wanting in the duty he owed to that house, to himself, and to his country, if he did not, on this occasion, and on all future occasions, express these sentiments. He should, therefore, move—"That all the words of the original motion, after the word 'that' be omitted, for the purpose of inserting the following words—'this house will, on this day six months, resolve itself into the said committee'" (hear).

Mr. *Coke* thought it was most preposterous to come down to the house and demand an annuity of 6,000*l.* for the Duke of Cumberland's child, when it was quite evident that the grant was intended for the Duke himself (hear, hear). He looked upon this proposition as a direct insult on the house and the country (hear, hear).

Mr. *H. Sumner* opposed the grant. In doing so, he must say, that he felt a great degree of delicacy, because he was actuated by motives which he was under the necessity of withholding from the house—motives, the grounds of which he could not, with propriety, develop to those whom he now addressed: 2,000*l.* or 3,000*l.* a-year would be sufficient to have the young prince properly lodged and educated.

Mr. *J. Bennett* congratulated the house and the country on the burst of indignation which this grant had excited from the other side of the house. When he saw gentlemen of different political sentiments uniting on a question of this nature, it excited some doubt in his mind as to the necessity for parliamentary reform.

Sir *G. Warrender* said, that the Duke of Cumberland was very hardly dealt with. Much obloquy appeared to be levelled at this royal duke. But from the observations which he had had an opportunity of making, he owed it to himself and the country to declare that gross injustice had been done that royal personage, and that the accusations which had been scat-

tered about, and in distant parts of the country too, had no foundation whatever. The duke and duchess were at present enjoying a degree of domestic happiness and comfort (a loud laugh) which few individuals could boast of (hear, hear). In depriving the Duke of Cumberland of this grant, they drew a most unpleasant distinction between him and the other royal dukes. He would contend, that a grant of this kind ought not to proceed on the individual merits of the party. They should recollect the lofty situation to which he was born—they should consider the necessity of providing for him and his family in a manner befitting that situation; and, considering these circumstances, he was prepared to say, that it was the duty of the house to accede to this proposition. The income which the Duke of Cumberland received was quite inadequate to the expenses of his establishment. Numerous applications were daily made to him, and large sums were annually expended in charity. He would ask, was it, or was it not, desirable, that a young prince, who was likely to come to the throne of England, should be properly educated? Would the house, from any feeling of irritation, prevent him from being educated here under the eye of his father? He was sure it was not in accordance with the generous feelings of the House of Commons to separate a father from his child. Would they teach the young prince, as his first lesson, that it was his duty to remain separated from his parents? He thought they would not. He thought they would make the necessary provision for the education of the child under the eye of the father. In stating this, he had only discharged the duty which he owed to the country, to the house, and to the royal family.

Sir *J. Sebright* had been informed that the Duchess of Cumberland received 3,000*l.* a-year from the King of Prussia. This, together with the income which was derived from this country, appeared to him to be amply sufficient for the establishment of the royal duke. It was very painful to say any thing that might appear disrespectful towards the royal duke; but it was a well-known fact, that a man could not go into society, of any kind in this country, without hearing remarks on the conduct of that royal personage. However attached gentlemen might be to the royal family, that attachment could not excuse an absolute waste of the public money. It was a waste, not only bad in itself, but it became worse under the peculiar circumstances of the case (hear). The royal duke appeared before them like a man applying for relief to a body of country magistrates—like an individual who requested the parish, in *forma pauperis*, to enable him to maintain his own child (hear).

The *Chancellor of the Exchequer* said, it was not on the ground that the Duke of Cumberland was inadequately provided for on a former occasion that he had deemed it necessary to introduce this Bill. If the circumstances of the case were, at present, the same as those which existed when the former vote was proposed, then any proposition to grant the royal duke that which had been refused on two previous occasions, might have justified the harsh language which had been indulged in by the hon. member for Norfolk (Mr. *Coke*) and reiterated by the hon. member for Hertfordshire (Sir *J. Sebright*). But the case was entirely altered. Parliament had given to the royal brothers

of the Duke of Cumberland, a certain annual income on account of their marriage, and in the expectation that they would have families. A like allowance was refused to the Duke of Cumberland. Since that period the Duke of Cambridge had had two children, and yet he had not asked for any increase of income; because the 24,000*l.* per annum which was granted to him was considered to be sufficient. The Duke of Cumberland having now a son, naturally wished to be placed in the same situation as his royal brothers. It would not be a proper mode of proceeding if ministers came down to parliament and asked for a grant of this description, merely on account of individual character (hear, hear). He thought it was proper, on account of their exalted rank, that those royal personages should be placed on the same footing; and it would be an act of gross disrespect, if the House of Commons said, "We call on your Majesty to treat two of your royal brothers with particular marks of esteem, and to cast a reflection on the third (hear)." Although the hon. member for Hertfordshire did not place his opposition altogether on the ground of the personal character of the Duke of Cumberland, yet his hon. friend the member for Surrey (Mr. H. Sumner) had done so. Now, amidst all the hints and insinuations which had, from time to time, been thrown out on this subject, he never had been able, for the soul of him, to discover on what point it was that gentlemen really founded their opposition (hear). He could perceive no circumstance which could induce the house to refuse this grant, which might not also be put forward as an argument for depriving the Duke of Cumberland of that income which he at present enjoyed; or which might not be made a ground for reducing the grants which had been voted to the Dukes of Clarence and Cambridge.

Mr. T. Wilson declared he would vote for the grant, on the ground of his entire confidence in the Government.

The house then divided, when the numbers were—

For the amendment, 113—Against it, 143—Majority, 30.

In the committee on the bill,

Mr. Brougham said there was upon the face of the bill an evident inconsistency, inasmuch as it pretended to have one object, and proceeded to accomplish another. It proposed to provide for the education of the Prince of Cumberland, and it secured an annuity of 6000*l.* to the Duke of Cumberland for his life. The bill said nothing of the life of the young prince. The hon. bart. (Sir C. Forbes), who had addressed the house at a period when, of all others, it was most convenient for those who favoured the Duke of Cumberland to express their opinions (the hon. bart. spoke after the gallery had been cleared, and before the division took place), had thought that even this was not doing the Duke justice. Perhaps he would wish to make up for the cesser of so many years by increasing the annuity to 12,000*l.* The Duke, he had no doubt, would, without hesitation, accept the hon. bart.'s generous offer. But the ministers were not affected by the enthusiasm which had so far led away the hon. baronet. They proposed that the annuity should only be paid henceforth. There was a provision in the second clause, which limited the payment of the grant to the Duke on con-

dition that the Prince should live in England during the period of his education, unless the King should give him licence to reside abroad. He, however, wished to put the business upon a fair and intelligible ground, and to give to the committee an opportunity of doing properly and fairly that which it was pretended this bill was to accomplish. If there was any man in the house who thought that the income of the Duke of Cumberland did not permit him to educate his son in a proper manner, and at his own expense, he (Mr. Brougham), whatever might be his own notion on the subject, would say then, give the Duke the means of educating his son, but let it be upon such terms as shall ensure to the people that their money is laid out for the purpose for which they have granted it. Give to the King, to whom every member of the royal family must be an object of the nearest interest, the power of directing the application of the sum which is voted for this purpose. Let that sum be quite ample, nay, more than enough, for the education of this very young prince. Let this little boy of six years old have 3000*l.* per annum devoted to the payment of his education, but let the King have the care of seeing that this sum be wisely and properly laid out. Thus the committee would do what they pretended. They would enable the prince to be educated, and they would provide a proper authority—that of the King—to superintend his education. Over the ministers, who were responsible for the King's acts, the house would have some control, while they had none over the Duke of Cumberland, who resided abroad and was irresponsible. If this were not a direct and liberal course of proceeding, he did not know what could be called so. It had besides this recommendation, that those who thought with him might agree to it, while those who thought that the son of the Duke of Cumberland ought to be educated at the public expense, would be enabled to give effect to that opinion without violating any constitutional principle. He would therefore move, as an amendment in the bill now before the committee, that the sum to be granted for the education of the Prince of Cumberland, son of his Royal Highness the Duke of Cumberland, should be reduced from 6000*l.* to 3000*l.* per annum, and that it should be paid to the King instead of to his Royal Highness the Duke of Cumberland.

Sir C. Forbes said, that what he had to address to the house on this subject he was more desirous of saying to the house than to the newspapers (a laugh). He appealed to the house whether, if this mode were generally adopted, there would not be shorter speeches, and the business would be sooner and more satisfactorily disposed of. He repeated, however, that the arrears from the time when the house refused the grant, ought to be paid up.

The Chancellor of the Exchequer said, that when he had stated at the commencement of this subject that it was *bona fide* the intention of Government that the Prince of Cumberland should be educated in England, as he had no intention, whatever the learned gent. might think, to grant, by means of a side wind, an annuity to the Duke of Cumberland, it would not be inconsistent with the intention he had then expressed to confine the proposed grant to the minority of the prince (hear). But it was impossible for him to agree that the

prince's education should be under the control of the King instead of his father. It could not be imposed as a condition to the grant that the father should have no interference in a matter of such deep interest to him. It were better not to give it at all (hear, hear). With regard to the proposition that 3000*l.* should be granted instead of 6000*l.*, he was quite aware how difficult it must be to demonstrate to the house that 6000*l.* were necessary for the education of the prince (a laugh, and cries of hear), and so it must be as to any other sum. If the prince were to be educated in England, and his parents resided abroad, he would sometimes go to visit them. It could not be the wish of the house that the grant should be so small as not to allow the possibility of such a visit. He had, as he had stated, no objection to confine the grant to the minority of the prince; but he could never consent to deprive the Duke of Cumberland of that natural and lawful right which he possessed, of directing the education of his own children (hear).

Mr. *Brougham* said he was somewhat surprised at the objections of the rt. hon. gent. to the proposition of giving to the King the superintendence of the education of the Prince of Cumberland. It was no more than the law had already given to him. As the chief of the royal family, he was entitled to the care of those who were hereafter, it might be, to become the heirs to his throne: this had been held to be the law by the decision of ten out of the twelve Judges, in the time of George I.*h.*, and that decision had been acted upon. The late King interfered upon this ground with the education of the late Princess Charlotte; and his present majesty had, at a subsequent period, insisted upon exercising the same power on the authority of this very case, which was opposed to the ordinary principle of law. The avowed object of this grant was, that an adequate, nay, a splendid provision should be made for the education of the prince, in such a manner as suited his rank and the probability of his one day filling the throne of this country. That object could not be accomplished in a manner more regular, more constitutional, and more safe, than was now proposed, by giving the money which was destined for this purpose into responsible instead of irresponsible hands—by giving it to the ministers of the country (for giving it to the King was to make them answerable for its application), who could not divert one shilling of it from its proper purpose. Those ministers could not devote it to the payment of the debts which the Duke of Cumberland might owe; but they would be answerable with their heads for the honest application of it to the purpose for which it was intrusted to them. Was not this a more safe, consistent, and constitutional means, than that which the Chancellor of the Exchequer asked the house to adopt, and by which the money must fall into the hands of the Duke of Cumberland, who was living abroad, and who, when once he had obtained possession of it, might do whatever he would with it.

Mr. *Canning* said, the amendment of the learned gent. and his speech, had three parts. The first was to limit the grant for the life of the young prince; the second, was to give the sum to the Crown; and the third, to reduce it by one-half. His rt. hon. friend (the Chancellor of the Exchequer) had stated, with regard to the

first of these subjects, that he was prepared to introduce some words, which would confine the grant for the life of the young prince. But, with regard to the other two, though it was not possible to accede to them, it was difficult to find arguments against them. They were grounded on a degrading want of confidence in the Duke. It was a question of feeling, and depended on an opinion of character; for nothing explicit had been stated. Those members who were of the same opinion as Ministers—that this measure ought to pass, supported their opinion by the confidence they placed in his Royal Highness. Those Members, on the other hand, who entertained some undefined suspicions, would give effect to those suspicions by their vote. But it was not to be expected that those who avowed no such distrust of the Duke of Cumberland—nay, more than distrust, dislike—nay, more than dislike—persecuting detestation, should conform to the opinions of others (hear, hear). What might be the grounds for those hostile feelings he could not pretend to say, but those who voted for taking the education of the son out of the hands of his father, and for diminishing the amount of the allowance, furnished no test which would enable others to decide on the justice of their suspicions. The justice of those suspicions was not a fit subject for discussion here. Every man must act as he pleased, and it was in vain to attempt to combat by argument what had not been fairly brought forward as substantial objection. Beyond the concessions which the Government had already made it was impossible to go. His Majesty's ministers had no right to inflict an opprobrium on the Duke of Cumberland, which, if he could have deserved, they would have forgotten their duty to the country in bringing his name before the house (hear, hear).

The house then divided, when the numbers were—For the amendment, 114—Against it, 152—Majority. 33.

The *Speaker* rang again in the chair.

Mr. *Brougham* rose just to submit, that whatever might be the case with respect to the decisions of the house, it would be no breach of privilege to comment upon the conduct of a committee. Then, having a right to observe on what had passed, he felt himself bound to declare, that there never had been a vote in his opinion passed by any committee less calculated to raise that committee in the estimation of the country, than that which had been just declared. For it was nonsense to talk of this grant being made to the Prince of Cumberland—it was a gift directly to the Duke—an allowance, not of 6000*l.* annually for the education of the son, but of 5000*l.* annually for the expenses of the father. This was the true state of the transaction, and the only light in which the people of England would look at it. They would learn that a committee of the House of Commons, with its eyes fully opened by discussion, had, in its deep respect for the Duke of Cumberland—in its esteem for his high public and private character—an esteem, no doubt, perfectly well grounded, but which they themselves did not entirely share—preferred granting that illustrious prince 6000*l.* a-year—that was to say, 5000*l.* for his own use, and perhaps 1000*l.* for the education of his son—to giving him 3000*l.* a-year only, which, after paying for that same education, would have added 3000*l.* a-year to his existing



lacombe. He wished the committee joy of its vote with all his heart; and he hoped that the members would live long—that was to say, the rest of the present session, and all the next—to take the benefit of it. When, at the expiration of that time, too, they returned to their constituents (hear, and great laughter)—he hoped that they would still further reap the fruits of their glorious triumph that evening, over constitutional principle, common sense, consistency, and honest, plain, direct, and manly feeling. One word more only, upon what had fallen from a rt. hon. gent. opposite, who, in the warmth of his eloquence, and the weakness of his case, had said something about a feeling of persecuting detestation, on his (Mr. Brougham's) side the house, towards the Duke of Cumberland. He (Mr. B.) disclaimed any acquaintance with, or personal animosity against the royal Duke, and begged to add, that his Royal Highness had so completely altered his feeling towards the Whigs, and had shown so much courtesy to several gentlemen distinctly introduced to him as of the Opposition party; that there were hon. members sitting round him (Mr. Brougham), who actually felt a doubt how far, if any personal question arose with respect to the Duke of Cumberland, they could, pleasantly, take part in it. From a sense of public duty, therefore, it was, and certainly not from any private reason, that he opposed the vote before the house; thinking, as he did, in his conscience, that it was the most absolute and unjustifiable job that he had ever seen attempted. In case the house should still feel inclined to take a more prudent course than it was now proceeding in, and to grant the 3000*l.* a-year, subject to the control of Ministers, he now gave notice that, on the coming up of the report, he would move an amendment to that effect. In saying this, however, he desired distinctly to add, that he considered the vote as unnecessary altogether, and that he should certainly oppose it *in toto*, in all the other stages through which it had to pass.

Mr. T. Wilson complained that the hon. member for Winchester acted unhandsomely in throwing dirt at the committee. If he thought that that hon. and learned member, or those who sat with him, monopolized all the talent and patriotism of the house, he might perhaps feel inclined to pay attention to them; but as it was, he felt perfectly justified in the vote which he had given.

Mr. Brougham protested that in what he had said he had no way alluded to the hon. member, who he did firmly believe to be the most wise and patriotic member of the side of the house on which he sat.

THURSDAY, JUNE 9.—The Chancellor of the Exchequer moved the order of the day for the bringing up of the report on the Duke of Cumberland's annuity bill.

The question having been put,

Mr. Brougham objected to the bringing forward of the measure at so late an hour, as it then was; 11 at night; and

Mr. Warre moved, as an amendment, that the report be received this day six months.

Mr. Brougham said he had heard a report, that in certain alterations to be made to the palace of Buckingham-house, it was intended to encroach upon the rights and enjoyments of the public, by making a road through the Green

Park, instead of that at present leading up Constitution-hill, and that the intervening space was to be added to the gardens of Buckingham-house. He took this opportunity of asking the right hon. the Chancellor of the Exchequer, whether these proposed alterations were really to be carried into effect?

The Chancellor of the Exchequer assured the hon. gent. that there was not, nor had ever been, the remotest intention of encroaching upon the Green-park.

The house then divided, when the numbers were—For the amendment, 60; against it, 106—Majority against it, 46.

Mr. Brougham then proposed, that the discussion on the next stage of this bill should commence at an early hour to-morrow. He recommended all gentlemen who were present, and thought with him, to renew their opposition in every stage of the bill; and he besought them to use their several influences with all who now happened to be absent. He did not consider the present defeat as any reason for being dispirited; for he reminded them, that on the former occasion, when this obnoxious measure (now a thousand times more objectionable, because then it was openly proposed, and now it was insidiously attempted to be carried by a side-wind) was brought forward, it had been unsuccessfully opposed time after time, and had yet been thrown out in its very last stage.

The Chancellor of the Exchequer said he was quite willing that the debate should commence as early as the learned gent. proposed.

The report was then received, and the bill was ordered to be read a third time to-morrow.

FRIDAY, JUNE 10.—The Chancellor of the Exchequer having moved, that the Duke of Cumberland's Annuity-bill be read a third time,

The Marquis of Tavistock could not refrain from taking this, the last opportunity which could present itself, of rising to state to the house, as shortly as possible, the grounds on which he objected to the grant which the present bill comprehended. He objected to it, first, on the ground that it was more than was necessary for the purpose to which it was proposed to be applied; secondly, on the ground that it would establish a very bad precedent; and lastly, and most strongly, on the ground that it was asked for on the most false and indirect pretences. In the first place, he called on the rt. hon. gent. to say, whether he really believed that the whole, or any thing near the whole of the grant would be required for the purpose which had been stated? If the rt. hon. gent. would lay his hand upon his heart, and say, that such was his belief, he should be satisfied that the money would be so applied, although he should still think it a most extravagant expense for such a purpose. But, he was quite sure, the rt. hon. gent. would say no such thing. Although he had not the honour of being personally known to the rt. hon. gent., he had much too high an opinion of his integrity to believe that he would say so. Nothing could be farther from his wish than to cast on him the slightest imputation. On the contrary, it was because he entertained the highest respect for his character that he was sincerely sorry he did not come down to parliament on this occasion, in his usual straight forward way, and ask the house at once to make

an addition of 6,000*l.* to the Duke of Cumberland's income. Had the *rt. hon. gent.* boldly and manfully taken that course, he should not have objected to the proposition. For he had not heard of any direct charge against his Royal Highness. And although he feared it was very true that, some how or other, his Royal Highness had contrived to forfeit the good opinion of a large portion of the people of this country, yet, whatever might be the cause of that displeasure, his Royal Highness seemed to him (the *Marquis of Tavistock*) to have been sufficiently punished. But, although he should not have objected to the grant, had it been directly proposed as a grant to the Duke of Cumberland, he disliked extremely to be asked for money for one purpose, when he was very sure that it was to be applied to another (hear, hear). Such a proceeding he considered indirect and dishonest. It was a proceeding of which, in private life, he was convinced the *rt. hon. gent.* would be incapable. But he had another objection to the grant. It seemed to him, that by giving so large a sum for the education of so young a child, they were establishing a precedent that might be attended with great public inconvenience (hear, hear). He must apologize to the house for thus trespassing on their attention (hear, hear), but entertaining so strong an opinion as he did on the subject, he could not satisfy himself without expressing it. Some time had elapsed since he had been able to vote or to take any part in the proceedings of parliament, but he was anxious to declare, that, in the interval, he had witnessed with sincere and unmixed pleasure, the improved system in which His Majesty's government had been proceeding, and more especially the wise, liberal, and conciliatory doctrines which had been maintained by the *rt. hon. gent.*, as well as by the *rt. hon. Secretary of State for Foreign Affairs* (hear, hear). He could not, therefore, but express the astonishment which he felt in common with many other members of that house that those *rt. hon. gentlemen* should risk the good name and the great popularity which they had justly acquired, by consenting to become parties to such a juggle as that under consideration (hear, hear). He thought that His Majesty's ministers were too honest for such a job as this (hear, hear); and he could not sit down without returning his sincere thanks to his learned friend, the member for Winchester, for the persevering opposition which he had made to the measure (hear, hear).

General Palmer was one of those who, in the former instance, had supported the motion for the same increased allowance to the Duke of Cumberland as had been voted to his brothers, and he had always considered the rejection of that measure an act of injustice to his Royal Highness, and an insult to the honour and feelings of the crown. It was, therefore, solely upon that ground that he must vote for the present bill, condemning it in all other respects. He declared his conviction, that the only real enemies of the crown were its own ministers. Had they only renewed the present bill in its former shape, with the simple statement that his Royal Highness, after ten years' absence, was desirous of returning to England with his family, in the only way that, consistently with his honour and interest, he could return—viz. by being placed upon the same footing as the other branches of the crown—the present objections

to the bill would not have existed; instead of which, ministers, in place of a grant of 6000*l.* to the only party wishing it, called upon parliament for double the amount, for reasons false in themselves, or which, if true, were revolting to the sense and feelings of the people, and humiliating to all the parties brought forward, excepting that illustrious female, whose exemplary conduct had gained her the esteem of the country. But his chief object in addressing the house, was to defend the individual whose personal character had been the sole ground of opposition to the grant in a former instance. As to his politics, was it unnatural that, born and educated at court, with a bishop for his tutor, he should be a tory in his principles, and, like all other tories, whatever they might pretend, an enemy to civil and religious liberty? But in private life, he knew, and would answer for the fact, that his Royal Highness was in all respects a manly, open, honourable character—a most kind and affectionate husband;—farther, that he was neither a spendthrift nor a gambler; but from the liberality of his nature, had been led into difficulties which had compelled him to reduce his establishment and to live abroad, because the House of Commons, in the exercise of its discretion, had withheld that assistance which would have prevented the necessity.

The *Chancellor of the Exchequer* felt much gratified at the good opinion which the noble *marquis* opposite was pleased to entertain of his character. He must still, however, declare, that the only ground on which His Majesty's government were induced to advise His Majesty to send a message to that house, recommending a farther grant to his Royal Highness the Duke of Cumberland, was to afford means for the proper education of the young prince, his son. If that son had not been born, the recommendation for an additional grant would never have been made. But His Majesty's government felt that as parliament granted to his royal brothers an addition of 6000*l.* a year on their marriage, without any reference to the contingency of their having children or not, and that as the Duke of Cumberland had now a son, it was not unreasonable to furnish his Royal Highness with the means of giving that son the education in this country which, standing as he did in relation to the throne, it was natural for the people of this country to expect that he should receive. His Majesty's government also felt, that if it should prove conformable to the feelings of the Duke of Cumberland, and of his royal consort, to accompany their son to England, it would be exceedingly unjust under such circumstances to leave his Royal Highness under less favourable circumstances in point of income than his royal brothers. On those grounds he certainly thought, and, notwithstanding all that had been said on the subject, he still thought, that in making the proposition which he had made to the house, he did not do any thing unworthy of an honest man (hear, hear).

Mr. Tierney could not allow this bill to go through its last stage without explaining the reasons which influenced him in the vote he was about to give. He begged the house to understand that, in the first place, he put entirely out of his mind all that had formerly passed with respect to his Royal Highness. If his Royal Highness had experienced the greatest and most affectionate attachment from that

house, he should still have opposed the present proposition, because he thought it founded on an erroneous principle, and calculated to furnish a mischievous precedent. Let the house consider how this bill had been introduced. He did not mean to impute any thing unfair to his Majesty's Government; but his Majesty's message, while it stated the education of the two royal children as calling for the assistance of parliament, omitted to mention the death of the father of one of them, and the consequent want of a proper provision, which was, indeed, an abundant cause why for that child a parliamentary provision ought to be made. That her royal highness the Princess Alexandrina Victoria of Kent had not required such a provision up to her present age of six years, had been owing solely to the liberality of her royal uncle, the Prince of Saxe-Coburg. It now, however, became necessary, that a parliamentary provision should be made for that royal infant; and to the grant for that purpose no objection was made by the house. But then came the consideration of the grant for the other child, which was altogether a different matter. They were now called upon to admit that the child of a younger branch of the royal family, four degrees from the crown, was entitled to apply to parliament for a provision; and that that provision should be 6000*l.* a year. He did not impute to the *rt. hon.* the Chancellor of the Exchequer any mis-statement of his intentions. He believed he meant that grant not for the Duke of Cumberland, but for the Duke of Cumberland's child. That was his (*Mr. T's.*) objection to it. He objected to any grant, and still more to such a grant to a royal child under such circumstances. But he objected to the bill on various other grounds. In the first place no similar bill that he ever heard of for making a grant to any member of the royal family, was ever couched in such terms. Every other bill of the kind, founded on a message from the crown, recited that message in the preamble, in order that posterity might know on what it was founded. There was nothing of the sort in the bill before them. All they found in the preamble of the bill, was a declaration that it was expedient to make a provision for the honourable support and education of the son of the Duke of Cumberland. He denied that expediency. It was never thought expedient to make provision for any other branch of the royal family at so early an age. No application was made to parliament to provide for any of the royal dukes at so early an age. No parliamentary provision was made for the Duke of Sussex until he was 29; for the Duke of Cambridge until he was 23; for the Duke of Kent until he was 33; or for the Duke of Cumberland until he was 28. Then why were they to be called upon to declare that it was expedient to make a provision, and a provision of 6000*l.* for this little prince? They must always bear in mind, that the question was greatly narrowed by the assertions of his Majesty's Government. The proposed grant had no reference whatever to his Royal Highness the Duke of Cumberland; it was solely and exclusively a provision for his child. Now, it was impossible that that child could need 6000*l.* a year. If it did, the fact ought to be stated in the preamble of the bill, and it ought also to be set forth, that its royal parents had no means of providing for it. Although in the first instance he was caught by a notion of the propriety of educating the young prince in England, he

was, on further consideration, not very anxious to see him brought here. It appeared to him to be a cruel operation thus to tear a child from its parents. And for what purpose?—They all recollected that his late Majesty, whose memory they cherished with so much affection and veneration, so far from thinking it necessary to bring his sons from Germany, actually sent them to Germany (a laugh). Now, what mischief did that do? He could understand the principle on which it might be considered dangerous that an English prince should remain on the continent, when of an age capable of forming political opinions, lest he should be inoculated with all the vile doctrines of the holy alliance; but why he might not be permitted to remain in Germany until that period—why he might not be permitted to remain there, until he was twelve years old, for instance, was beyond his comprehension. Without any good reason assigned, therefore, they were called upon to make this provision. The terms of the bill were also well worth considering. In all similar grants—in all the grants to the present Princess, his Majesty had been enabled by warrant to direct issues to the amount of 12,000*l.* a year during his Majesty's royal will and pleasure. But here the money was to be paid by virtue of special letters patent; and there was nothing of his Majesty's royal will and pleasure in the case. Why was his Majesty to have nothing to do with it? Why was the right to this money to be vested by letters patent in the Duke of Cumberland, subject to no control on the part of his Majesty, who ought to be considered as the father of his family? But, it was said that this particular provision of the grant was to be null and void unless his Royal Highness the Duke of Cumberland should consent to reside in this country. He (*Mr. T.*) did not believe that his royal highness would refuse to do so. But what a shabby figure they made of him, when they supposed that the security they had for his residence here was the receipt of this 6000*l.* a year, instead of any constitutional anxiety for the education of the young prince in England! And if they did this, why did they not go on? Why did they not take from the Duke of Cambridge his child, and educate him? But it was clear that this was only a pretext for the measure. Again, however, he asked, why not make this grant as all former grants were made, to his Majesty, in the first instance, and subject to his royal will and pleasure? The *rt. hon.* the Chancellor of the Exchequer said, such a proceeding would be cruel and degrading to the Duke of Cumberland. There was a strong case nevertheless in point; that of the late Princess Charlotte. When, in the year 1806, the princess received an addition to their incomes of 6000*l.* a year, in the form of a grant to his Majesty, enabling him by warrant to issue to them that sum during his royal will and pleasure, another grant of 7000*l.* a year was made to his Majesty, enabling him by warrant to issue to her Royal Highness the Princess Charlotte that sum during his royal will and pleasure, and during his life, and that of his present Majesty, then Prince of Wales. His present Majesty never considered himself to be used cruelly, or to be degraded by such a proceeding. Let the same be done in the present case, and there would be an end to a great part of the difficulty which he now felt in acceding to the proposition before the house. Let them secure to his Ma-

jesty, under the superintendence of his responsible advisers, the disposal of this money, and most of his (Mr. T'a.) objections would cease. But as the bill now stood, he defied any hon. member to lay his hand on his heart and say it ought to pass, (hear).

Mr. Canning said, that among the topics introduced by the rt. hon. gent. who had spoken last, he had principally dwelt upon the form of the bill, and complained that it left His Majesty without that control over the application of the money, which had been established in all former grants to the Royal Family (hear). He denied that the rt. hon. gent. had put a fair construction upon the meaning of the bill, for he (Mr. Canning) apprehended that, as the bill was drawn, the house had a sufficient guarantee for the due application of the money to the purpose for which they intended it. For it was provided that two things should be ascertained before a single payment was made by virtue of the bill: first, whether it pleased his Royal Highness the Duke of Cumberland to reside with his family in England, and superintend in person the education of the young prince; for in that case there was no doubt the money was intended immediately to pass into the hands of the Royal Duke: But, supposing it did not please the Duke of Cumberland to take up his residence in England,—and really upon that point his Majesty's government were at present without any information, and there, perhaps it would be said, they ought to have waited to ascertain that fact in the first instance, before they proposed the grant, (hear)—but, suppose the duke should still remain abroad, then unquestionably it would be the duty of his Majesty's Government, before they issued the money, to take upon their own responsibility such steps as would ensure the application of it according to the conditions upon which the grant was made. So that in either alternative the house had the assurance that their intentions could not be frustrated. Why it now pleased the Duke of Cumberland to select a foreign residence, it was not their province to inquire; and while, on the one hand, it would be harsh to make this grant the positive condition of his return, so on the other they had every chance of tempting him to reside in this country. But in any view of the subject, whether he resided here or not, still they secured a British education for a British prince (hear, hear). Indeed, the rt. hon. gent. himself (Mr. Tierney) admitted that he was first struck with the propriety of securing such an object, though he had afterwards altered his opinion: so that the only difference between the rt. hon. gent. and his Majesty's ministers was this—that they maintained the opinions they had set out with, consistently, while the rt. hon. gent. had abandoned his (a laugh). The Government thought the young prince should be brought up here in England, and recorded that opinion in the bill. In looking at the subject merely in a pecuniary view, the house would see that the Duke of Cumberland would not obtain much benefit when they considered the great additional expense which would be entailed upon his Royal Highness by the removal of his residence to this country, or by the arrangements here for the education of his child. Whether the whole of this money would be pound by pound applied to the education of the Prince in the first year, or in the second year, he was not prepared to say; but as the grant was intended by his Majesty's Ministers to

cover the public allowance for the whole minority of the Prince of Cumberland, he thought it no more than a fair average sum of the actual expenses of such a personage until he had attained his full maturity (hear). This was the more respectful and delicate course—to come at once with the general sum which was adequate to the general purpose, and not year after year be recurring to Parliament for fresh supplies to meet a growing expenditure in the Royal Family. He knew not why such a proposal should be stigmatized by the epithets of being dishonest, uncalled for, and unconstitutional. No man could deny the principle, that it was proper to have a British prince educated at home. Neither could it be asserted that, covering the whole minority, the proposed grant was more than enough for carrying that principle into effect. He denied the application of the rt. hon. gent.'s precedents to the case before the house. The younger branches of the Royal Family, in the last reign, were living under the same roof with their father, and were in immediate succession to the Crown. That made an essential difference in the cases. All the other royal brothers had sufficient means of maintenance, and the Duke of Cumberland was the only one to whom the house denied the means of defraying his own expenses, or of providing for his children. When motives were imputed, he could do no more than merely deny them. He was conscious of no such motives as had been attributed to those who brought forward and supported this measure. When the proposition was stated to him, it appeared fair and reasonable. The object of educating the young prince in England appeared to him of the highest national importance, and to forward that object of national importance they were providing the means, in as unexceptionable a manner as the difficulties of the case would permit.

Mr. Brougham gave the rt. hon. gent. opposite entire credit for their declarations that they were on this occasion uninfluenced by sinister motives: and it was due to them to say, that they had at length put this question upon its fair issue, and had frankly avowed that the only reason for conferring this grant upon the Duke of Cumberland, was because his Royal Highness had not obtained the 6,000*l.* a-year before (hear). In other words, that the object in which the Chancellor of the Exchequer had been frustrated in the years 1815 and 1816, was to be carried into execution in the year 1825. But though the ministers said this, the bill did not, for the bill said the money was to be given for the education of the child; and, said the rt. hon. gent. (Mr. Canning), the ministers will take care and see the money so applied as to ensure the fulfilment of the object. But he differed with the rt. hon. gent. as to the power he thought he would possess over this bill when it passed through Parliament; he differed from him as to the construction of the law: and was sure his view would be sustained by the Crown lawyers and the Lord Chancellor, were the case referred to them as the legal advisers of the Crown. The act of Parliament was imperative; and from the moment it passed, the money became as of right invested in the Duke of Cumberland. It would be then too late to negotiate about its due application to any other purpose than that to which it should please his Royal Highness to appropriate it (hear). The right hon. gent. would recollect, that in a late bill, in which, not as in this, it was not

their lot to differ, but one in which they had a fellow feeling—the Catholic bill, the omission of the two words “shall and may,” in the optional commission for regulating certain matters touching the question then at issue, had so altered the legal construction of that part of the bill, that they were obliged to re-cast it, and take from the Friday to the Monday before they could send it to that place where it met the fate of all other bills which had for their object a fair and liberal support of civil and religious liberty (a laugh). The present measure was more important in a constitutional than in an economical point of view; it went to establish the principle that the instant a grandson or nephew of the King was born, Parliament must provide for the child although the father was already provided for. It had been said that there was a difference between the case of this infant and that of the other Princes of the Royal Family who had been previously provided for; because they, meaning his late Majesty's sons, had lived under the paternal roof. If this were the fact, the royal roof was of no inconsiderable extent, for some of these young Princes were at Lisbon, Gibraltar, Halifax, and Quebec;—one was in command of a garrison;—another of a province. And the Duke of Gloucester's case was still more in point, for there the income was not to commence till the demise of his Royal Father. That illustrious Prince, the Duke of Sussex, except the allowance made to him by Parliament as one of the Royal offspring, had never received one shilling of the public money—no rank in the army or navy—no profits or preferments had ever been allotted to him; to the Parliamentary grant had his income been always confined. It was the lot of that illustrious prince to have married a lady in a foreign country: that marriage was illegal in England, and illegal by the very worst of all human laws—that royal marriage act, which had been well described by Mr. Wilberforce—as the very worst, the most unconstitutional act that disgraced the statute book (loud cries of hear), and for the violation of such an act had His Royal Highness the Duke of Sussex suffered by a heavy diminution of his income. The actual income of his Royal Highness was no more than 13,000*l.* a year; and the Duke of Sussex had never applied for an increase. So had he regulated his domestic economy, affected as he was by the peculiar circumstances of his situation and alliance, that he never had made any pecuniary composition with any of his creditors—he always had ensured for each and every of them a course of payment for 20*s.* in every pound of debt which was contracted; and so well had that management of the reduction of claims occasioned by his Royal Highness been bereft of the advantages which had been conferred upon other branches of his illustrious family—so well had it been managed by the Duke, with the assistance of a learned gentleman who had superintended the business, that out of an accumulation of debt which nearly amounted, for the reasons he had stated, to 100,000*l.*, all had been reduced—at 20*s.* in the pound—to a small residue hardly worth mentioning (hear, hear). And he it carefully remembered, that never during that time had his Royal Highness been exposed to any circumstance which was calculated to compromise the Royal dignity in his own person, or to abate one shilling, or one farthing, from the claim of

any creditor (hear, hear). He (Mr. Brougham) had now performed his duty in stating these circumstances as connected with the affairs of the Royal Family, and with the details and principle of the present bill; and no farther would he press upon the attention of the house, than to implore of them to consider how they stood as to this grant with their constituents—the country at large. He had redeemed his pledge by resisting that bad measure, to the utmost of his power, from the beginning to the end of its progress. The last stage was at hand, and he hoped to God that house might still do its duty—retrieve its character with the country, and act so as to look back on that night's vote with greater satisfaction than it could have experienced from a review of the former decisions. But be the event what it might, they on that side had done their duty; and they could both enjoy the rewards of an approving conscience, and look confidently to the people for their support. Nor had they any reason to expect that even the Prince, whose interests they had opposed, would misconstrue the integrity of their motives, or feel less respect for them than for those who had supported him. The illustrious house to which he belonged, was renowned for a magnanimous spirit towards fair and honourable adversaries. The Duke of York freely forgave—he corrected himself, there could be nothing to forgive in those who did their duty—he overlooked, both officially and as an individual, the part taken by those who in 1809 had the painful task to perform of censuring his conduct, and removing him from the command. Her late Majesty, the most persecuted of women (hear), was also the most forgiving that they had seen in any station of life (hear). The illustrious personage who still survived, closely connected by blood and affinity, was not inferior to the rest of his house in this magnanimity. The late Mr. Perceval experienced his forgiveness and enjoyed his favour. The same forgiveness was extended, and the same favour continued, to his successors in place; and a much less important person—the individual who addressed them—though naturally far removed from such conflicts, yet by the accident of the times and his fate, having come into what inferior minds might deem a collision with that higher quarter, when false rumours were propagated by interested malice, or by intrigue,—as if the faithful discharge of his public and professional duties had excited the personal displeasure of the Sovereign,—had the extraordinary satisfaction of knowing that a gracious, and the more gracious because a voluntary assurance (for who could have asked any question on such a subject?) was given by that illustrious personage that all such rumours were utterly without foundation. The Duke of Cumberland would, after that night's vote, he doubted not, show, by his respectful submission, and his candid construction of their motives, that he belonged to the same family with the Duke of York, the late Queen, and the Sovereign himself” (cheers).

The question being loudly called for, the house divided.—For the third reading of the bill, 170—Against it, 121—Majority, 49.

Mr. Brougham then moved to substitute 3,000*l.* for the sum granted in the bill.

The motion was negatived, but

The Chancellor of the Exchequer, agreed to adopt so much of the suggestions of the learned gent. as respected the application of the

money, by inserting words which required it to be appropriated "in such manner and form as His Majesty shall see fit."

The bill was then passed.

### ARMY AND NAVY. *Increase of the Army.*

FRIDAY, MARCH 4.—Lord Palmerston, in a committee of supply, brought forward the army estimates. After pointing out the difference between the items of the last and those of the present year, he observed that government had thought fit to demand an addition to our army of between 11 and 12,000 men. He said, that he should first explain the grounds upon which this increase of force was asked; and next, the manner in which it was proposed to be effected. Upon the first point, he had one advantage; it could not now be urged, that additional force was wanted to terrify or coerce the country. In England, he saw nothing but prosperity, and confidence between the government and the people; and, even in the less favoured region of Ireland, there appeared rays of brighter omen than parliament had been accustomed to witness. He trusted that the vote of the other evening\* had gone forth through the empire as a harbinger of peace; he believed that its principle, if carried into full effect, would do more than armies to maintain tranquillity in Ireland; and he admitted that the improvement which had taken place in the state of that country compelled him to say, that there was nothing in the aspect of that country which ought to weigh in favour of extending our military force. The grounds upon which this increase in our military establishment was meditated were purely external. Now, it might be a fair question, perhaps, how far it was for the benefit of a country to possess colonial establishments, and whether it would not be better to confine herself to the improvement of her domestic institutions and the cultivation of a commercial intercourse with foreign states. He was not, however, called upon to discuss that question. He should content himself with observing, that as far as civilization extended—from the most northern point in America to the southernmost extremity of Asia—British settlements and British wealth existed. To abandon possessions gained at the cost of much blood and treasure—many of them important outposts for the protection of our commerce, and the security of our dominion—would be a violation of public faith, and a forfeiture of national honour. In estimating the amount of force necessary for the service of our colonies, it was impossible to be guided in any degree by the force which had sufficed in any former period of peace. It was not only requisite that adequate garrisons should be provided for every station, but it was also necessary that we should have a surplus force, in order that we might have the means of sending reinforcements from time to time, to places at which they might be called for. In the present state of our army this could not be done. It was almost impossible, with such means, to furnish strength for the ordinary duties. On a recent occasion, when the East India Company stood in need of a reinforcement of 5,000 men, they

were compelled to detain five regiments which were under orders for England, and which had already been on foreign service more than 20 years. And this fact led him to another consideration, which was, that the colonial service ought not to be converted into a perpetual banishment for all who were employed in it. When a man entered the army, he devoted his health—his hopes—his prospects to the service of his country. The feeling which carried him forward, rendered him superior to all considerations of fortune, of personal convenience, or death. If he were led to the bed of honour, or, still worse, to the bed of sickness—whether he fell in the field of battle, or became a victim to the climate, still his friends in the one case, and the sufferer in the other, had the consolation that he had fallen in the protection of all that was dear to man, and his fate was brightened with the lustre reflected from the applauses of his country (cheers). But the case was widely different, when men who had trod, perhaps, in every field of battle, whose names were inserted in every page that recorded the victories of England, were doomed to perpetual banishment in some obscure colony, wearing out the remains of their health in some unwholesome climate, undergoing all the fatigues of duty, without the slightest hope of distinction (hear, hear). The house would see that such a state of things could not be allowed to continue, and that it was a duty they owed to those brave men who suffered in the cause of their country, to place at the disposal of the Government the means to maintain, not only proper garrisons in our colonies, but to relieve those garrisons at proper periods, and, what was of great importance, at proper seasons of the year (hear, hear). Assuming then, for the present, that an augmentation was necessary, then came the question as to the manner of making the increase. There were three ways open to the Government. First, the augmentation might have been made by adding to the rank and file of each regiment; secondly, it might have been effected by raising entirely new regiments; or, thirdly, in the mode in which he proposed to accomplish the object—by adding new companies, and not rank and file, to the existing regiments. Now the first mode, that of adding rank and file, would have been the cheapest, because they could have been added without the expense of officers; but there was the objection, that we could not obtain a sufficient disposable reserve at home adequate to the proposed arrangements for local re-inforcements. The next would have been the most expensive mode, because the staff and regimental allowances would have been increased. Now the mode which he proposed, appeared to him to combine both advantages—namely, comparative cheapness and a disposable reserve. The army was formed at present of battalions of eight companies; the strength of each battalion being 576 rank and file. It was now intended to add two companies, so making each battalion consist of 10; and these 10 companies were to be divided into two distinct classes of force. Six companies were to form what would be the service battalion, and these would consist of 86 men each; the other four companies would be the battalion of reserve, or of depot, and would amount only to 224 men altogether. Thus, when the regiment was at home, the whole would be considered as one battalion, and quartered together; but when ordered on

\* See the resolutions of the house, March 1, ante, p. 153.

service, only the six strong companies would go abroad; the other four remaining at home to recruit, and to provide for casualties. At present, whatever the emergency, troops had to be raised and disciplined. This occupied a long time; and before one casualty was provided for, another had occurred. But the reserve companies would be always ready in case of necessity, from which draughts could be made, subject to none of the delays which hampered us under the existing arrangement. Another great advantage would be this. At present, if an officer were suffering from ill health, and were ordered home by the recommendation of the Military Board of Health, the Commander-in-Chief could only give him a limited leave of absence; in consequence of which, it constantly happened that officers were compelled to go on half-pay; but by the new arrangement, when an officer came home, he could take his duty at home, and some more efficient officer might be sent out, by means of which, many officers would be saved the inconvenience of personal service. The same way with the men: at present if a private came home invalided, he was discharged; but by the new arrangement, although unfit for foreign service, he would be employed at home in drilling and training the men. He would thus be saved compulsory service, and the country saved the expence of his pension (hear, hear). He now came to the subject of the veteran battalion—a force which it was intended to disband altogether. It was one of the conditions upon which pensions were granted to soldiers, that they should be forthcoming for garrison or veteran battalions, whenever the Crown thought fit to call upon them. When the veteran battalions now embodied had been called out in 1821, nobody had supposed that the necessity for keeping them together could have been of long continuance. These men had now been embodied between three and four years; and it was thought right, after so many years of service, to let them retire to their homes, to enjoy in peace the moderate pensions which their country had afforded them: should it be found necessary again to assemble them in arms, the present indulgence would not lessen their alacrity to obey the call. The grounds, then, on which the present increase was called for, he had already stated to be the service of the colonies; and he begged it to be distinctly understood, that Government had not the least reason to apprehend a breach of those friendly relations which subsisted between England and other powers. He should sit down by moving that a force not exceeding 86,993 regular troops, exclusive of forces in India, should be granted for the present year.

Col. Davies said, that if he could take the case to be precisely as the noble lord had described it, he certainly should refuse to vote the increase of force which was demanded; but as he believed that there were in our foreign relations abundant reasons to call for such a measure, he found himself reluctantly compelled to give his assent to it. He adverted to the unnecessary quarrel into which England had been forced with the Burmese, and complained that the force kept up in the colonies was needlessly large altogether.

Mr. Hobhouse objected to the grant in a time of peace, without a full explanation of the principle on which it was demanded. It ought to be known to the country that there were not

one hundred members present, when the house was called upon to grant an addition to our standing army of 15,000 men. He did not feel disposed to divide the house on this motion; but before the votes were finally agreed to, he should wish to receive from the Secretary for Foreign Affairs, when he should attend in his place, an explanation on two points—first, whether the proposed increase in our armed force had any reference to the possession of Spain by the armies of France; and secondly, whether the present was to be considered as the last augmentation of our peace establishment. With respect to the augmentation of our forces in India, he would admit that, however the present contest there had arisen, whether we were right or wrong, it was necessary that our military operations there should be pushed with vigour; and if 25,000 men were not sufficient for that purpose, he would consent to an increase of 30,000 or 40,000. But he could not sanction such a large establishment at home.

Sir R. Wilson said, that looking at the situation in which we stood in relation to the powers of Europe—and at the results which might at no distant day follow from the present posture of affairs, he was of opinion, that the increased force demanded was not more than circumstances required. He had an opportunity some time ago of witnessing the state of the garrison at Gibraltar; and though it was kept up with that order and discipline which produced the greatest regularity, it was altogether insufficient in point of numerical strength, to perform all the duties of the place, without excessive personal fatigue to the men. He thought, too, that the great naval force which France had at that time in the bay, and its troops in the vicinity of Cadix, would require an increased force in the garrison (hear, hear). Besides, was it possible that we could permit the occupation of Spain by the French troops? Was it possible that we should suffer Portugal, our ally, to be menaced, for its disposition to adopt a constitutional form of Government? These were points of serious importance, which showed the necessity of our keeping up a force which would enable us to assume that attitude which our interests required. We had recently taken an important step, which must lead to the speedy and full recognition of the South American States. The steps to which this would lead on the part of England would cause great heart-burnings in particular quarters, against which we should be on our guard. Exigencies would arise which we ought to be prepared to meet at the moment; for it would be the worst policy to begin our preparations for a particular exigency, when that exigency had arrived. He would therefore give to the Government of this country the means of acting beforehand, and if they attended to the true interests of England, they would use them in that way which would draw down the approbation of their own countrymen and the benedictions of other nations.

Mr. Peel said, it was unfair to infer from the present comparatively thin state of the house, that the absent members were negligent of their duty. The fact was, they were fully sensible of the reasonableness of the proposed grant, and that it would not be opposed in that way which might require their personal attendance to support it. That such was the case, might be inferred from the state of the benches opposite, and even from the speeches which had been delivered on that side by hon. members who par-

tially disoriented from the motion. The gallant general (Sir R. Wilson) had borne testimony as a military man, and a man of honour, to the situation of the garrison of Gibraltar, and had stated his opinion that it would not be for the interest of the army that it should continue in its present inefficient state. When the house heard from such a competent judge of military affairs as the gallant general, that this was the situation of the only garrison which he visited, it was fair to assume that similar defects existed in our other foreign possessions; and as the fact was, that an increase was required in most of them, he could not see on what grounds the motion could be opposed.

Mr. Calcraft said, that if the hon. members who usually sat on his (the Opposition) side had conceived the public exigencies did not require this augmentation, they would be found at their posts to oppose it. Looking at the situation in which we stood, he thought that Government ought to be put in possession of an effectual disposable force, and therefore he fully concurred in the vote.

Mr. C. Hutchinson said that there were two great objects which ought to occupy the attention of the Government and the Legislature at this time: first, the union and conciliation of the people of these islands; and next, the reduction of our expenditure. But, in a period of general peace and harmony, he thought we ought not to be called upon for any augmentation of our military force. If ministers had called for the present increase of troops—say, for ten times as much, and more than that—for the purpose of opposing that body misnamed the Holy Alliance, in any presumptuous interference with their liberal views towards the South American colonies, he would willingly support them. He would, for such an object, be ready to vote the last shilling of the country (hear, hear).

Mr. John Smith was glad to find that the army estimates for the present year were of such a nature as not to require much of their attention. He wished to draw the attention of the committee to the situation of officers who had received wounds in the service. If they had lost a limb, or received wounds which were considered equivalent to loss of limb, they received a pension proportional to their rank. Not one word was said in the grant that it was merely to continue during his Majesty's pleasure; and the consequence was, that it was generally understood to continue during the life of the person to whom it was granted. Now to his knowledge several persons who had received severe wounds, had been deprived of such pensions after receiving them for a considerable time, and had been reduced by such deprivation to a state of very great distress. He put it to the committee whether individuals who had received pensions without any limitation of the time of their continuance, should not be entitled to hold them for life.

Lord Palmerston said he had formerly been condemned for the extreme liberality with which these pensions had been administered; and the hon. member for Aberdeen, whose absence (a loud laugh)—yes, for a wonder, the hon. member was not present (a laugh)—the hon. member for Aberdeen, whose absence he regretted (another laugh) had considered him so prodigal of them, as to say that he would not be satisfied unless they were taken from him. He would merely state, that in granting those pensions,

he had always sought to do impartial justice between the public and the officers on whom they were bestowed. The cases in which pensions had been discontinued were but few in number; and there was not one of them which had been discontinued until after the party had undergone the examination of the army medical board, and they had reported that the injuries for which the pension had been granted, had ceased to operate to the disadvantage of the individual. He could assure the hon. member that if he would bring any case to him, in which he thought injustice had been committed by discontinuing the pension, he would examine it impartially, and if the injustice were proved, would remedy it immediately.

The vote was then agreed to.

MONDAY, MARCH 7.—On the motion for bringing up the report of the committee of supply.—

Mr. Hume was sorry that he was prevented from attending on Friday, when the resolutions for the increase of the army were agreed to. He could not concur in the proposed increase. His gallant friend (Sir R. Wilson) said that the garrison of Gibraltar was not adequate to its defence. He found by the last returns, that we had 3,900 men in that fortress; and with such a force he considered it perfectly safe during a time of peace, when it was defended as much by the faith of treaties as by the force of arms. Another gentleman had said that additional troops were wanted in our colonies. In what colonies? Was it in the Ionian Islands, or in the Cape of Good Hope? He allowed that the condition of the Ionian Islands had been much improved since the accession of the present governor, but he still believed that if Greece were free, the inhabitants would shake off our protection, in consequence of the insulting regulations with which it was accompanied. At the Cape of Good Hope we had a governor, who was exciting discontent by the most arbitrary proceedings, and who was compelling the most valuable of the colonists to return home to England, to obtain shelter from his oppression. If fresh troops were wanted to confirm the authority of arbitrary governors, he for one should be unwilling to grant them. Instead of increasing the regular army to 86,000 men, he would reduce it to 68,600; and by so doing he would get rid of the window-tax, and have a considerable surplus to spare for other purposes. If there must be an excess in any part of our armed force, it ought to be in our navy, which was our best and most effectual defence. To put his sentiments upon record, he should move a resolution, which would meet the approbation of the people out of the house, whatever might be its fate with their representatives within it:—"Resolved that, in the opinion of this house, it is not necessary in a time of profound peace, to maintain for the service of the current year the number of 86,893 regular land forces, exclusive of those for India, and also exclusive of 9,000 royal marines, of about 7,800 of royal artillery and engineers, of 33,258 enrolled militia, yeomanry, and volunteers in Ireland; and of 55,000 militia, and 43,000 yeomanry and volunteers in England, and of 3,900 veterans; making in the whole 257,496 men actually in arms, or ready to be called out if necessary; exclusive, also, of colonial troops at Ceylon, the Cape of Good Hope, and in Africa, amounting to about 4,000 men, not included in the above number."



Col. *Johnson* seconded the resolution.

Mr. *Wilmot Horton* contended that the state of the West Indies rendered it necessary for us to have efficient garrisons in every island; and almost every governor had sent pressing requisitions to Government to increase the number of troops. The same was the case in New South Wales and Van Diemen's Land, where the military had to perform the duties of the police.

Sir *R. Wilson* was anxious to know whether the pensions of wounded officers would be in future paid quarterly instead of half yearly, the advantage of which shorter period he had hinted on a former evening.

Sir *Charles Long* thanked the gallant officer for calling his attention to this subject, and assured him of the anxious desire which his Royal Highness the Commander-in-Chief had always evinced for the accommodation and comfort of this meritorious class of officers, and he (Sir *C. Long*) should take care to carry the recommendation into effect from the 24th of June next.

After some further desultory remarks, the house divided, when the numbers were—

For Mr. Hume's resolution, 8—Against it, 102—Majority, 94.

### *Sir Robert Wilson.*

FRIDAY, JUNE 17.—On the motion for the Speaker quitting the chair to go into a Committee of Supply,

Mr. *Abercrombie* said, that it was perfectly consistent with the forms of that house, for any member to take the opportunity of the motion for the Speaker to leave the chair, on going into a Committee of Supply, to state any matter, which having the appearance of a grievance, might still not be deemed worthy of the formalities of a specific motion. He acknowledged that every apology was due from him, for attempting to originate a discussion upon the subject to which he now invited their attention. He proposed calling the attention of the house to the case of one of its members—a person who had the honour to sit there as the representative of what he might consider one of the most important parts of this mighty Empire—one whose services were well known to his own country, and who had received from foreign princes the highest honours which admiration, gratitude, or patriotism, could prompt them to bestow, in reward for faithful services and great exploits. He alluded to his gallant friend the member for Southwark (Sir *R. Wilson*). In the first place, he distinctly and unequivocally declared, that he was not about to state any thing that could, in the remotest degree, call in question any portion of the conduct of his Royal Highness the Commander in Chief. He would be the last man in the house to originate any such discussion; nor was it his intention to call in question the exercise of the prerogative of the Crown in relation to the dismissal of his gallant friend. They might differ very materially upon questions of prerogative, but he hoped that those differences would not be allowed any place in this discussion. Nor did he complain of the opinions formerly expressed by any gentleman against his gallant friend, much less did he ask for any retraction of such opinions. His object was to persuade the house to do honour to itself by expressing its sympathy for one whose eminent services and personal worth, whose noble and generous

feelings, had endeared him to all who knew him, including a large proportion of that house. If, in the passages of his life which had been in the eye of the country and in the face of his enemies, some errors had been observed, even his enemies would admit that those errors resulted from the excess of a generous and ardent spirit, the transports of which merely wanted more control. His military career of 29 years was suddenly interrupted by a decree, which was not preceded by any court-martial. Looking at his whole career, his eminent qualities, his honourable and useful services, and his long military life, he would ask had not his punishment been more than enough? Was he less cherished by his constituents? Was he less esteemed by his profession? Was the career which best suited his gallant spirit to be forever closed? He was dismissed without the sentence of a court-martial. The house, being moved, refused to investigate his case. Many who now heard him could witness to the temper and moderation with which his gallant friend conducted himself on that occasion. It had been a source of gratification and pride to his friends who then supported him, ever since. Many who voted against him from a sense of public duty, were ready to express their kindly feelings towards him, and their admiration at his conduct in that trying period. Considering the age of the individual, and that this was probably the last session of the parliament, he wished to appeal to the house, and especially to those members who were now engaged in the profession of his gallant friend, for some declaration of their kindness towards him. He saw about him some of the companions in arms of his gallant friend—some who had shared in common with him his trials and his dangers. To them he appealed, if, upon the late promotion, his gallant friend had been restored to that situation which he had attained by his brilliant services, would not the army have been gratified—would not his brother officers have been delighted? He abstained from particularizing the brilliant feats in which his gallant friend had been engaged. In any testimony which he could give, he ought to warn the house that he gave it in the spirit of a warm and ardent friendship which he felt for his gallant friend. He only wished the house to listen to the opinion of those who knew, and could rightly appreciate the character and services of his gallant friend. If the expression of that opinion should be such as he confidently anticipated, then he knew the effect which it would have in its representation in the proper quarter. He wished not to be misunderstood. He was not suggesting to any member the performance of any thing which would not as readily spring from the exercise of their own free will—much less did he seek by this to shackle the exercise of those powers which were vested in the Crown and its ministers; but he spoke in reverence to the known kindness of a benign Sovereign, and his benevolent intentions to those who had faithfully and zealously served him. Such an act of grace and favour as that to which he alluded, would be most grateful to the house, highly satisfactory to the profession, and a matter of rejoicing to the country. He was not dictating any particular method for carrying this object into effect. He was only endeavouring to arm those upon whom the affair would devolve, with reasons for furthering the generous intentions of the Sovereign to all his meritorious servants.

If these suggestions should lead to the restoration of his gallant friend, it would make him happy to think that he had been the humble instrument for bringing about that object (loud and fervent cheering).

Mr. *Littleton* said, that the same motive which had formerly made him withhold his assent to a motion for inquiry upon the dismissal of his gallant friend, now induced him to express his gratification at the sentiments of the learned gent. To excite discussion upon the former errors of his gallant friend would be bad taste and bad feeling in him. However they might have demanded attention, they were forgotten. No other recollections were now preserved but the services of his gallant friend. His restoration would be received with acclamations by the whole country, and would be felt almost as a personal obligation by every member of the house.

Col. *Wodehouse* hailed this as a most welcome proposition. It was the more commendable, because it dictated no particular course to the Government. Looking to the Sovereign, and those in the probable line of succession, it was clear that acts of benevolence, of oblivion, of grace and favour, were most congenial to them all. He hoped for the best results from the expression of the opinions of the house.

Lord *W. Bentinck* said, that as the opinion of the profession was asked relative to the merits of the gallant member, he ventured to say, that it was the opinion of the army generally, that there was no officer in our service, whose bravery and conduct had shed greater lustre on the British arms, or had rendered more essential services to his country than he (Sir R. Wilson) had (loud cheers). It was not for him to enter into each of the errors, if any errors had been committed by the gallant officer; neither was it his wish to direct the Crown in the course which it ought to pursue, as he thought with the learned member who introduced the subject, that it was better to leave the matter in the hands of those Royal Personages, with whom resided the power of reversing what had already been done.

Sir *M. W. Ridley* had been long intimately acquainted with the gallant officer, and in no man had he ever met greater integrity, spirit, gallantry, or honour (loud cheers). If the gallant officer had committed errors, he was sure they must have been errors arising from the very best feelings, and from the wreckless gallantry and spirit with which he espoused any particular cause. But if such errors ever existed, they must be forgotten in the recollection of his former brilliant services; and if the royal favour should be in unison with the opinion of that house, it would restore him to that rank to which he was an ornament, and the honour and character of which he would never tarnish.

Sir *Ronald Ferguson* said, that he had often, and at a distant period, served with his gallant friend, and he would venture to say, that no man in the British army had so invariably distinguished himself for gallantry and bravery as he had (hear, hear). And he felt that the restoration of that gallant officer to a service of which he had been so great an ornament, would be received by the whole army, as well as by the House of Commons, with the greatest possible satisfaction. The conduct of his gallant friend required no eulogy from him, but he humbly hoped that some gallant officers opposite, one of whom (Sir G. Murray) was looked

upon as one of the highest military authorities in the country (hear, hear), would not abstain from bearing their testimony to the military character and conduct of his gallant friend (hear, hear).

Sir *G. Murray* could not refrain from expressing the great pleasure he had in bearing testimony to the military character and services of the gallant officer. He had served with him abroad, and he knew no man possessed of more of those qualities suited to the military service than that gallant officer (hear, hear); and it would give him great pleasure to see the gallant officer restored to his rank and station in the service (hear, hear). At the same time, he could not help saying, that if his gallant friend would confine his abilities within their proper channel, they would be rendered the more valuable to the service and to the country (hear, from the ministerial benches). No one was more anxious than he (Sir G. Murray) was to maintain this opinion of the service, and to preserve the prerogative of the Crown over the army. That power must be placed somewhere, and no where could it be better placed than in the hands of his most gracious Majesty, and of the royal and illustrious Personages who acted under the controul of the Crown.

Mr. *Brougham* did not wish to detain the house—all parts of which, he was glad to see, were ready to bear testimony, to the fullest and most ample extent, to what had been said by his learned friend. He (Mr. B.) had been consulted by the gallant officer upon the subject of his removal from the army, and he could bear positive and solemn testimony of his having defended his conduct against certain political adversaries with the utmost human exertion of forbearance;—a forbearance, the more to be admired, because he was at that time in possession of certain important documents—but he nobly disdained to act upon them.

The conversation rested here, and the Speaker left the chair.

### *Yeomanry Cavalry.*

FRIDAY, JULY 1.—Mr. *Stuart Wortley* wished to know, whether there was any intention on the part of government to give any additional allowances or pay to the yeomanry cavalry of the country?

Mr. *Peel* replied, that no man was more disposed than himself to consider highly the services of the yeomanry cavalry. Some of the regiments had lately resigned, however; others were inefficient. He had accepted their resignation, though he did full justice to their services and their merits. Among other propositions, it had been suggested that they should be allowed exemptions from the burden of certain civil offices, such as that of constable; but it was of great importance to the public to maintain the respectability of the office of constable; and it was especially important in country districts to fill it with prudent and respectable individuals. He, for one, would prefer making a direct settled addition to the pay of the yeomanry cavalry, to the granting them exemptions of this kind. He set a high value upon their services, but was not at present prepared with any measure of the kind alluded to by his hon. friend.

Mr. *Littleton* bore testimony to the very beneficial results of the revision of the yeomanry cavalry corps establishments, which his rt. hon.

friend (Mr. Peel) had wanted to be made last year.

Mr. *Hume* and Mr. *Maberly* concurred in this expression of approbation; the latter gent. recommending that every corps which was not in efficient state should resign.

Mr. *Peel* observed, that he intended, in future, to require these troops to go out on permanent duty for certain continued intervals; taking care not to make them so frequent as to be burdensome to the country.

### *Navy Estimates.*

MONDAY, FEB. 14.—The house having resolved into a committee of supply,

Sir *George Clark* stated several reasons which had operated to swell the estimates of this year beyond those of the last. An addition of force was required, not only to repress the pirates at Cuba, but to protect the interests of British merchandize in the neighbourhood of the infant states, whose rights being but recently recognized, might still become subjects of conflict. An increase of expense had been created by the advance in the price of commodities used in the service, especially the article of iron, which had more than doubled since the parliament met. But the chief additional expense had been incurred in consequence of some wholesome and beneficial alterations in the victualling system. What were called the banyan-days were abolished: and it having been felt that the quantity of ardent spirits allowed was inimical to the discipline of the navy, a diminution had been made in the allowance of grog. Many experienced officers attributed the offences which usually led to a rigorous exercise of discipline to the second allowance of grog. The saving effected on this article was given to the men for pocket-money, paid monthly on the stations, wherever they might be, at 2s. per month, to petty officers and seamen. The warrant and commissioned officers took no additional allowance for the reduction. The men were also served with tea.—He then moved that 29,000 men, including 9000 marines, be granted for the year 1825.

Sir *J. Yorks* wished to hear from some of his gallant friends who had served, how the new plan of victualling worked in the navy. He had doubts as to the plan of commuting tea for grog. What could be expected from that herb which was little better than clover-dust? He feared that the objections to serving in the navy would not be done away among the old seamen by a diminution of their grog.

Sir *G. Cockburn* said, that the new system worked surprisingly well. The admirals and commanders on the stations found the greatest advantages from it. It was hailed with three cheers by the crews of many of the ships on receiving the information. The tea was not given instead of grog; the tea and the grog had nothing to do with each other. The men were paid in pocket-money all that was taken away in grog, and they had the tea besides. The portion of grog which had been stopped, was made up to the men in pocket-money: and one reason for this change had been, that when the men went into port without money in their pockets, they were apt to desert; whereas they might now amuse themselves without being liable to the same temptation. But nothing demanded more praise than abolishing the banyan-days. The sailor was entitled to a pound of

beef per day. He used to receive, instead of six pounds of beef, two pounds of flour, and four pounds of pork, and then he was told that he had six pounds of beef. He now received that which was properly due to him under its right name. They had before been allowed a large quantity of peas, enough, in fact, to supply a hog-stye; but they never ate them, and the article, or at least its value, went into the pocket of the purser. No one could doubt as to the superiority of the present plan.

Sir *I. Coffin* was surprised that his gallant friend should object to that healthful beverage tea, and nickname it brick-dust (loud laughter).—not brick-dust, but clover-dust (laughter).

The resolution was then agreed to.

On the next vote, for 320,450l., for the wear and tear of His Majesty's ships of war for 1825,

Mr. *Hum*, said, he thought a more explicit account ought to be laid before the house, of the expenditure of the former year, so that they might compare it with what was proposed for the present. They ought to be informed what was the amount of articles made use of, and what was the expense of wear and tear for the number of ships employed.

Sir *G. Cockburn* said, the expense which might be incurred for wear and tear of vessels at sea was quite uncertain. The vote of last year having been found short, 2s. a-man additional was required by the present vote, which, it was computed, would cover the deficiency.

Sir *J. Yorks* observed, that the sweeping phrase of "wear and tear," meaning the wear of hulls, masts, and spars, and the tear of canvas, had been in use for a great many years. Now, he could see no reason why the commissioners at the dock-yards could not give a more detailed account of this sort of expenditure. They might state what had been the wear of hulls and masts, and the tear of sails, for any given period. He did not know why the particulars of this description of expenditure should be wrapped up and concealed in these old-fashioned words.

Mr. *Croker* said, the wear and tear included the consideration of the size of the ships, the service on which they were to be employed for the current year, and other matters of so high a political nature as to render it inexpedient to adopt the explanatory mode that had been suggested. This vote of wear and tear was, in some degree, a vote of confidence to government. The estimate of the last year was always made the foundation of the new estimate. But he submitted to the hon. member, whether, taking an enlarged view of the question, without any reference to the present pacific state of Europe, it would not be impolitic to disclose the state of our naval force.

Mr. *Maberly* never before heard such an explanation in that house. The hon. Secretary (Croker) stated that this was a sum voted in confidence to his Majesty's ministers. Now he thought it really was a vote for wear and tear; if so, why not produce a regular estimate? But the hon. Sec. said, there was something beyond that (no, no, from Mr. Croker). Certainly, no more would be expended than was absolutely for wear and tear; and should there be any surplus, that was, he supposed, as this was a vote of confidence, to be disposed of as ministers thought fit.

Mr. *Hume* said, that the hon. Sec. would not give an account of the wear and tear, lest the enemy should find out the strength and disposi-

tion of our naval force; although there happened to be a gentleman of the name of Murray, who printed a yearly statement under the hon. Sec.'s own auspices, so that any Power, by procuring that list, would know perfectly well in what part of the world our naval force was stationed, and in what amount. He protested against this as a vote of confidence. In the expenditure of money, he placed no confidence in any man (a laugh). The house would not do its duty if, in voting money for the army and navy, it allowed such confidence to lull its watchfulness to sleep.

Mr. *Maberly* agreed with his hon. friend (Mr. *Hume*), that when money was called for, the house ought to be satisfied as to the purpose to which it was to be appropriated. He hoped that in the next year a detailed statement of wear and tear would be laid before them.

The resolution was agreed to.

On the next vote for 94,250*l.* for ordnance for the sea-service,

Mr. *Hume* wished to know distinctly what the vote was for. Under the head of charge for ordnance, he observed an item "for boats hired at Queenborough, 23,000*l.*" Now it was notorious, that, of the persons employed in those boats, 160 out of 190 were freemen of Queenborough. Queenborough, it should be observed, sent two members to parliament, who were returned by those persons. Instead, therefore, of saying so much per head per man for ordnance, it would be more satisfactory to give the items of expenditure in detail—so much for gunpowder, so much for ordnance, &c. When 94,000*l.* was placed in one line, as the sum necessary, at 5*s.* per head per man, it looked as if every man in the fleet participated in it. He hoped that in future a specific account of the ordnance expenditure would be produced, that individuals might have an opportunity of checking every item.

Sir *G. Clerk* was sorry that the clerk of the ordnance (Mr. *Ward*), who could give a better explanation than he could, was not in the house. But he understood from him, that after due consideration, the sum proposed was found to be the lowest for which ordnance and ordnance stores could be supplied for the current year. With respect to the boats mentioned by the hon. gent., he should only say, that if boats were required to carry powder to the ships in harbour, it was necessary that they should be charged in the ordnance estimate.

Mr. *Maberly* said, every one knew that it was a complete annuity to become a freeman of Queenborough, for he was sure of getting one of these boats, to sail up and down the Thames in, half employed and half idle.

Mr. *Hume* said, the boats were not wanted: out of twenty-three that were at Queenborough, five only were used in the last year. The pay, however, went on as usual. The jurats of Queenborough were captains and mates of those boats, which, perhaps, explained the circumstance.

The resolution was agreed to.

**LORDS, MONDAY, FEBRUARY 21.**—The Earl of *Darnley* presented a petition from Mr. John Burridge, praying for an inquiry into the state of the navy. He said that he presented it the more readily, as it would give his noble friend an opportunity to clear up a suspicion which very generally prevailed, of the navy not

being in that state of efficiency in which it ought to be kept. There was a suspicion abroad that the navy was more or less affected with the dry rot.

Lord *Melville* said, that as far as regarded any general decay, he could most positively contradict such a statement. Some partial instances of decay there always must be; but beyond that it was absolutely untrue that there was any decay in the navy. The petition came from a person who had a nostrum for curing the dry rot. Cases of ships which had been pointed out in support of this allegation of dry rot, had been inquired into, and the state of those ships had been proved to be quite the reverse of the representation made. A strict investigation had been instituted, and the most ample details on the state of every ship in the navy had been obtained. The result was, that if they were to take any period of history, taking into consideration the number of ships, and comparing it with the present, they would select the latter as that period in which the greater number of ships were to be found in a sound state, and likely to last long. During the war, in consequence of the scarcity of timber, ships were occasionally built of timber liable to decay faster than that of which ships were built in ordinary times. But the Navy Board now guarded against the use of that sort of timber. Many propositions had been made for preventing a too rapid decay, but he set no value on any nostrum. The only effectual remedy was to use good and well-seasoned oak. In the want of good native oak, it had been found necessary to resort for a supply to the north of Germany, and other parts, where certainly enough was to be had, but of an inferior quality.

The Earl of *Darnley* was happy that he could corroborate what had fallen from his noble friend with respect to the present efficiency of the navy. He could speak more particularly with respect to one first-rate, the *Howe*, which had been represented to be in a state of decay. He knew the persons who examined that ship, on the opinion of one of whom he could place the most implicit reliance, and he had been assured that a sounder ship never was surveyed. With the exception of a plank or two, she was found to be in a perfect efficient state. The manner in which the British navy was now constituted did credit to the Admiralty; and he agreed with his noble friend, if the number and size of the ships were compared, there never was a period when it was in a better state. Having formerly had occasion to make remarks of a contrary nature, he was glad this opportunity for expressing his opinion had occurred.

**COMMONS, MONDAY, FEBRUARY 21.**—The house having resolved itself into a committee of supply,

Sir *G. Clerk* in proceeding with the navy estimates, observed, that, on the extraordinary of the navy, there was an increase in the present year, as compared with the last, of 120,000*l.* This arose from the enhanced price of materials, and from the additional expense of wear and tear. On the ordinary estimate, there was an increase of 80,000*l.*, in consequence of a very considerable addition having been made in the wages of the artificers employed in the dock-yards. For the last four years they had been restricted to five days in the week instead of working during the entire six. They were now, however, employed

throughout the six days, which sufficiently accounted for the increased expense. The sum voted last year was 476,000*l.* This year about 500,000*l.* would be necessary. On the half-pay, pensions, and superannuations, there was a reduction. A considerable sum was charged for carrying on several of the new works on the coast. Amongst these, one of the most prominent was the docks at Sheerness. Formerly the charge was made for carrying on works, which were nearly finished, and it was not intended by the Admiralty to have gone on any farther; but an offer was made to them by the architect, that if he were permitted to proceed more rapidly, and to use the materials and machinery he had on the spot, he would finish the new works in a short period, and at a reduced price. It was estimated that 50,000*l.* would complete the undertaking. The architect was to receive 400*l.* a year, and to be allowed  $3\frac{1}{2}$  per cent. on any money he might advance, should it be found necessary, beyond the 50,000*l.* The sum of 795,000*l.*, which stood in the first column of the estimate, might be considered sufficient for all the works. There was an increase on the estimate for the works in progress at Plymouth Sound. Independent of the ordinary works, they were building a light-house there, and it was necessary that that part of the break-water which adjoined the light-house should be built more substantially than the other portions of it. This was the reason why there was so large an addition to the sum necessary for completing this great national undertaking. It should also be observed, that the break-water had received some damage from the hurricane of November last. But it was satisfactory to be enabled to state, that the mischief was not of any very considerable extent; and it was proved, on that occasion, that it was perfectly suited to effect the object for which it was erected. It was now nearly completed, and, when finished, even with this additional charge, would come within the amount of the estimate of 1812. The estimate, before the injury from the gales, was 296,000*l.*, it would be now 295,000*l.* Some alteration would be made in the buildings connected with the victualling department, &c. at Plymouth. At present, those establishments stood at opposite sides of the harbour. The establishment at South Down, where the brewery and cooperage were situate, was very far removed from the ships, and was only accessible at particular times of the tide. This was an inconvenience which the Admiralty meant to remove. The establishment was not built on ground the property of the Crown, but was held by lease, which lease was now nearly expired. It was intended to purchase it, and to re-build the old houses, as had been recommended by Earl St. Vincent when he was at the head of the Admiralty. It was also in contemplation to build a sea-wall, for the greater security and convenience of shipping. The expense altogether would amount to about 40,000*l.* He concluded by moving for the sum of 54,886*l.* 5*s.* 1*d.* to defray the salaries and contingent expenses of the Admiralty office for the year 1825.

Mr. *Hume* could not understand why so large an expense was incurred on account of the navy. If the promises held out in former years, were worthy of the smallest attention, that expense ought now to be sensibly diminished. The house might imagine, because there was only an increase of 300,000*l.* this year, and

200,000*l.* last year, that the matter was of no importance. But the real question was, whether the amount was really necessary. In 1816, a committee was appointed to examine into, and estimate the probable expense of the navy for that and subsequent years, and they made their report accordingly. And now, in 1825, instead of the aggregate amount of the expense being reduced, it was actually greater than it was in 1817. So that, though a reduction was made in one or two years, they were now increasing the charge very considerably. They had been told, and they had a right to expect, that a very great decrease would be effected in an important article—the half pay and allowances. But, so far from that expense being lowered to the extent to which hopes had been held out, from 5 per cent. to 7 per cent., it was now very nearly as great as when the proposed reduction was intimated. There was something extraordinary in the system of keeping up half-pay and allowances on so extensive a scale. Why did not ministers bring back to the service persons who were on half-pay, whenever vacancies occurred? Promotions were now as frequent as ever, unless at the conclusion of the war, when a great number of promotions were gazetted. The Sec. of the Admiralty had declared on a former occasion, that whenever a vacancy occurred, it should be filled up by individuals on half-pay. He hoped the hon. Sec. would lay on the table a list of the vacancies which had occurred during the last few years, and show how many of those unfortunate individuals, who were on half-pay, had been brought back to full-pay. He feared the number would prove very small indeed. Two years ago, the reductions effected by ministers seemed to be dictated by a proper spirit—that of giving relief to the country at large: but they appeared to have lost sight of that object, and no reduction had latterly taken place. He thought, therefore, that it was better for the house to look at the aggregate amount of the estimates, rather than to consider the details at the present moment. They ought to say, distinctly, “so much is sufficient for the service of the country, the remainder must be reduced.” He considered the naval force at the present moment as too large. The South American States were so firmly established, that they were deemed fit objects for commercial treaties. In that quarter, then, no fleet was necessary; and he should be glad to know where any extensive naval force was required. The salaries now paid in the public offices were quadruple—nay, quintuple those which had been paid in any former peace; and unquestionably there was no necessity for such an increase of emolument. The amount of money expended at this moment for building ships was enormous. No less than a million a year, was thus laid out. We had already no less than 500 ships of war, a greater naval force than all the states of the world could command—why, therefore, should they go on building? Instead of this they should apply themselves to keep the old ships in perfect repair. The newly-built vessels were destroyed by the dry-rot. The hon. Comptroller of the navy (Sir B. Martin) smiled at the idea of the dry-rot. The hon. Comptroller, and others on the opposite side of the house, had stated that this evil did not exist to any great extent. But their statements were by no means borne out. He would not go the length which some individuals

old, and say that half the navy was useless, but he believed, from concurrent report, that more damage had been done to our ships of war since the use of unseasoned timber came into fashion, than was ever before known. Those who had the management of the naval department tried all manner of experiments to check the evil. At one time they smeared the ships with coal-tar; then they deluged them with thousands of gallons of oil; at another time they used salted timber; at another their experiment was to cover the ship in. They went backwards and forwards with their experiments, which afforded the best proof that they themselves did not know how to remedy the disease. A considerable sum was charged for the improvements in dock-yards and wharfs. The hon. member for Harwich (Sir G. Warrender) had stated, that if he had been aware, three or four years ago, that ships might be easily conveyed up and down the Medway, between Chatham and Sheerness by the means of steam-boats, which could tow them up and down, the sum expended on Sheerness should not have been laid out. Here, however, it appeared, that 795,000*l.* had been and was to be expended on the works now in progress at Sheerness. When they had such a dock-yard as that of Chatham, and when ships might be towed up and down without delay, by means of steam-boats, he could not but view this establishment at Sheerness as most gratuitously useless. If at a period of war, when they had a thousand ships, they could do without this establishment, what could they possibly want with it in a time of profound peace and with a navy of five hundred? There was also an enormous charge of 300,000*l.* for works at Plymouth, which deserved the attention of the house. When sums of this magnitude were called for, Parliament ought to have a little more detailed information than could be contained in a speech delivered at the table. He also observed a charge for the dock-yard establishment at Halifax. Why could not Halifax defray all its own expenses? There was no reason why the people of England should, from year to year, be burthened in this way. He wished to see the navy, which was, and deserved to be, the favourite service of the country, kept in the most efficient state; but he could not suffer what he conceived to be useless expenditure, which would go on increasing, if it were not checked, to pass unnoticed.

Mr. Robertson said, that the hon. member (Mr. Hume) had recommended the most mischievous policy, on this occasion, that could possibly be devised. Formerly our commerce was confined to Europe, the Mediterranean, and the West Indies; but now there was not a country on the face of the earth where our ships were not at anchor (hear, hear). If then, a new rupture occurred, was it not necessary that a great naval force should be ready to protect them (hear, hear)? He trusted his Majesty's ministers would not shrink from their duty, but that they would extend the navy as much as possible, not only to repeal the aggression of foreign powers, but to protect the commerce of Great Britain.

The resolution was then agreed to.

On the resolution for 157,176*l.* 3*s.* 5*d.* for his Majesty's yards at home,

Sir F. Knatchbull complained that many shipwrights and other artificers were discharged from the dock-yard at Chatham while none

were removed from Portsmouth or Plymouth. The consequence of this was, that as the men could procure no employment, many of them, with their families, were thrown on the parish.

Sir George Clerk said, that at the end of the war, it was found that there was not sufficient work for all the men employed in the several dock-yards. To avoid the necessity of discharging them, in consequence, it was offered to continue them at such work as there might be to do, at a lower rate of wages. The men received this as a boon, and were very glad to continue in the dock-yards upon the term offered them. In the course of last winter and the autumn, they expressed some dissatisfaction at the amount of their wages, and were told that they were at liberty to seek employment wherever they could obtain better pay. Some of them did so, and the reason why this happened to have taken place in Kent, more than in Plymouth and in other places, was because, on the men at Plymouth being told that they were kept in employment at the reduced wages only in order to keep them from the distress of being without work, they said they were content and continued their places. As to the families of the shipwrights discharged from the dockyards in Kent having become chargeable to the parish, that was their own fault; there was plenty of work for them to do in the private docks, but they had entered into a combination, and placed themselves under the direction of a committee who fixed certain prices, which the masters would not give. He could assure the hon. bart. that if all the shipwrights who were not absolutely wanted in the dock-yards should be discharged, the distress would be much greater, and more general.

Mr. Huskisson said he had reason to know, that there was at this time a great demand for workmen in the private yards, and that all the men who had left the public docks would have found employment there but for the mischievous spirit of combination which influenced them. Since the repeal of the combination laws, the workmen in this and other trades had committed such excesses as, if they were continued, would compel the house to resort again to the former laws, the repeal of which he feared had prejudiced some very valuable interests, and had in fact, been injurious to the workmen themselves. He knew that there were many persons now ready to give the workmen employment, and the statements of those persons placed the conduct of the workmen in such light as made him feel more indignation than he thought fit to express.

Mr. Hume was so far from blaming the Government for the course which they had adopted towards the shipwrights, that he thought it extremely humane to keep them at low wages, until the arrival of the merchant-trade should have furnished them with full employment. That time had now arrived. He was sorry to add to what had fallen from the rt. hon. gent. (Mr. Huskisson) that the conduct of the workmen in all parts of the country, since the repeal of the combination laws, which he had laboured so much to procure, had been highly blameable. They had attempted to impose upon their masters, regulations far more arbitrary and degrading than those which they had themselves so much complained of. He hoped the recent successes of the masters who had withstood these attempts, would teach the

workmen that this ungracious and impolitic conduct of theirs would drive their best friends in and out of that house, to wish for the re-enactment of the old laws (hear, hear).

The vote was then agreed to.

### *Discipline of the Navy.*

THURSDAY, JUNE 9.—Mr. Hume rose to submit a motion respecting the discipline of the navy. He had intended to move for a committee on the subject of impressment and flogging; but he was now induced to alter his plan, and to move for leave to bring in a bill to prevent impressment. If he could point out a mode by which the navy might be recruited by volunteers, like the merchant service, he trusted the house would concur with him in thinking that it would be most desirable that that practice should be dispensed with. He would, if the house gave him leave, bring in his bill, and have it printed, in order that it might stand over for consideration, to be taken up next session. His bill would prevent the practice of impressment, except in cases of great emergency. He had consulted with several naval men on this subject, and it seemed to be the general opinion that means might be devised for placing the navy on the same footing as other branches of the force of the country, as far as respected the facilities of keeping up the necessary strength by means of voluntary entry. One great cause which prevented this, was the power exercised of punishing seamen at the discretion of one man. That was a source of the greatest injury to the service. No man was ever flogged in the army until his conduct had been investigated by a court-martial; why was a seaman to be placed in a different situation? He could see no reason why the same rule should not be extended to both services. He understood that in some vessels containing from 300 to 600 men, as for instance the *Bulwark* and the *Dictator*, it often happened that there was not a single man flogged for six or eight months; but in other vessels he knew that men were flogged almost daily, with a severity which to him was inexplicable. If no capricious punishment were allowed to be inflicted in the army, by parity of reasoning there should be some security afforded to the seamen that no capricious punishment should be inflicted in the navy. Ministers very laudably issued an order in council on the 10th of March, 1824, limiting the number of lashes to be inflicted on any slave in Trinidad in one day to 25; declaring that even that number should not be inflicted until 24 hours after the commission of the offence for which he was punished, and awarding a definite penalty to any individual who should act in violation of those provisions. Why were not the seamen of this country placed under similar protection? Why were not the nature of their offences defined and punished by law? Why was not some enactment made to prevent them, not only from being unduly punished, but also from being punished at all until the irritation of the moment had subsided? He knew instances where officers had punished men contrary to the rules laid down by the Admiralty; and the Admiralty merely admonished them to be more cautious in future. To show how severe the punishments inflicted in the navy were, the hon. member read two statements, which he said the individuals who had sent them to him were ready, if they might be permitted, to make good at the

bar of the house. The first related to circumstances which had taken place 20 years ago (a laugh), and the last to circumstances which occurred only last year. The hon. member then read a statement from a sailor, who said that he had joined the *Howe*, Capt. Cockburn, in the year 1803, at some port in the East Indies; that he had not been many days on board before a marine received four dozen lashes because his musket had hung fire; and a veteran seaman as many more, because he remarked in conversation to the master at arms, that in all the 35 years during which he had been at sea, he had never seen so cruel a punishment inflicted for so trivial a cause; that during all the time he had remained on board the *Howe*, similar punishments were frequently inflicted, and that the feelings of all on board were harrowed and disgusted by them. The hon. member then read another statement, containing an account of the punishments inflicted on board one ship in the course of the year, from which it appeared that by far the greater part of its crew had been personally punished in some way or other. He described the punishment of *starting* to the house, and the circumstances under which it was generally inflicted; and then asked whether it was too much, under such circumstances, to ask for the interposition of Parliament? It was his object to put an end to flogging, unless by the sentence of a court-martial, and to leave the seaman in the same situation that the soldier was in at present. It might be asked, why had he brought this subject before the house, when there were so many naval officers in parliament who must be better acquainted with it than he was? The reason was, that though few naval officers could be found to defend the present practice, none of them chose to put themselves forward to put an end to it. Some of them, from the habits of early education, were enamoured of the practice; others looked at it with a lenient eye; and many more of them durst not express the opinions they entertained regarding it, lest by so doing they should, as an hon. friend of his had said on a former occasion, be obliged to turn their stern upon the Admiralty. Another object of his bill was to limit the period of service in the navy to seven or ten years, according to the plan which Mr. Windham had introduced into the army, and to give to every seaman who had served that period, a certificate of such service to secure him in future against impressment, though, in the altered system which he wished to introduce, he thought that impressment would be unnecessary, as the navy would be always filled with volunteers. There was no difficulty in getting marines, though they were subject to the same laws, discipline, and punishment as the sailors, in consequence of their receiving a bounty on their enlistment, and of their being enlisted only for a limited period. Under such an alteration as he proposed, he anticipated that in future there would be as little difficulty in procuring seamen. The rate of wages in the navy was not commensurate with the rate of wages in any other service. Seamen at present received in the merchant service 3*l.* 10*s.* per month; but in the navy 8*s.* He thought that, even with these disadvantages, men would prefer serving in the navy to serving in the merchant's service, if the arbitrary power of flogging were taken away, and if the other measures which he recommended were carried into execution.

Sailors, owing to the hardships to which they were exposed, generally suffered under a premature old age, and he would therefore recommend that pensions should be granted to them proportioned to their length of service. If a pension of 7l. or 10l. a-year were granted to a man after he had served ten years, it would be received by the navy as a boon of great importance. Another thing he should recommend, was to alter the present distribution of prize-money. Was it right that when a prize was taken, the captain's share of the booty should be equal to that of the whole crew put together? The officers should not be taught to look upon prize-money as an inducement to enter the navy; but the men, he contended, should. Of all future prizes he would give six-eighths to the men, and would leave only two-eighths to the officers. The Marquis of Hastings, and the other officers of our Indian army, had abandoned the whole of their prize money to their men; and he would advise the officers of the navy to follow their bright example. If such alterations were introduced into the naval service, he would undertake to say that, let war come when it might, they would have as many seamen as they wished to man their fleet without impressment; but as an emergency might arise, in which it would be impossible to wait till volunteers were collected, he would have such a register kept of all the seamen in the country as had been prepared 150 years ago, and with this additional proviso—that every man at sea should be liable to serve for five years in his Majesty's navy, just as every man on shore was liable to serve in the army for the same time. He then moved that "leave be given to bring in a bill to amend the 22d of Geo. II. cap. 33, and to make provision for the encouragement of seamen, and for the more effectual manning of his Majesty's navy."

Sir G. Cockburn commenced his observations by complaining of the want of courtesy which the hon. member had exhibited towards him in bringing forward a personal attack upon him, without giving him any information of his intention to do so. Had he received notice of the hon. member's intention to make a direct charge upon his conduct, he would have brought the necessary documents from the Admiralty to refute it. The house would recollect that 20 years ago, the discipline of the navy was different from what it was at present; and yet at that very time, he had on board his own ship made an order against "starting," and a lieutenant had quitted the service, for "starting" the men without permission. If the hon. member would mention the name of the individuals who were said to have been punished as he described, he should in all probability be able to tell him the real offences for which they were punished (hear, hear). As it was impossible for him to make such statement at present, he would confine himself to this observation,—that he had never inflicted any punishment, while he was in the service, except in the presence of his officers, or without inquiring into the nature of the offence which had been committed\*. With regard to the hon. member's

bill, the reason alleged for bringing it in was, that the seamen were so ill treated in the naval service of the country that they had a strong dislike to it. The statement, however, of the hon. member went along to disprove his own argument, for he had told the house that sailors were now procured for the navy without impressment, though they received only 34s. per month in the King's service, and 5l. 10s. per month in the merchant service. He then explained what was the nature of the retiring allowances for seamen, and warrant officers, after their periods of service for 12, 14, and 21 years, which he deemed to be sufficient, and denied that the hon. member was borne out in his comparison between the army and navy. The army were enlisted for life, the navy for a limited period, and liable to be paid off every three years; and so far from the general tendency of the commercial marine being to induce a preference for that service to the injury of the navy, as the hon. member seemed to suppose, the fact was the reverse, for the Admiralty, on the application of the merchant service, had repeatedly written to their officers on foreign stations to discourage their enlisting seamen from the commercial marine, unless it became absolutely necessary, from the urgency of the public business, and, indeed, this was done by the Admiralty, contrary to an old statute, which, for the purpose of encouraging the navy at the expense of the merchant marine, abrogated their private articles upon entrance into the King's service. When the hon. member argued upon the analogy of courts-martial, between the service of the army and navy, and insisted that no punishment in the former could be inflicted without such court, he had omitted stating that when the army were actually engaged in the field, there was a proviso that punishment could be inflicted by the commander-in-chief's order to the provost-marshal. Now he would ask, whether the general service of the navy at sea did not resemble that of the army in the field, and whether the same power of discipline ought not to be allowed to the one, as to the other? A ship, for instance, sailed upon a three years' voyage round the world, and it was impossible to have a court-martial on board. What then was to be done? Was the offender to be kept in irons all that time, or even to be kept in custody; and what other alternative had the captain for punishing the want of discipline in his ship? This was the ordinary case of the navy, and did it not resemble the case provided for the army in the field? The captain must in these cases abandon the supreme command of his crew, and the necessary enforcement of discipline, if the hon. member's motion received the sanction of the house. Let it not, however, be understood that the Admiralty held out any encouragement to the infliction of corporal punish-

of the Howe, while a gallant officer (Sir G. Cockburn) was commander. By a log-book of the Howe, which he had since had an opportunity of inspecting, he felt himself bound in fairness and candour to say that none of the severities which he had then spoken of belonged to the time of that gallant officer's command—he having never, in any instance, inflicted punishments of the nature then in question, without a previous examination.

Sir G. Cockburn declared himself to be fully satisfied with the explanation of the hon. member.

\* On Monday, June 13, Mr. Hume rose to retract in the fullest possible manner, the statement which he had been induced to make to the house from misapprehension of the contents of a letter which had been forwarded to him. He alluded to the charges of cruelty in the discipline



ment: on the contrary, they called for returns of its infliction, and he could give no better proof of the moral discipline of the navy than to say, that these accounts were transmitted from the service as often blank as full; and he could assure the house, that the Lords of the Admiralty marked with peculiar approbation those officers who had maintained discipline without resorting to coercive means. But of the necessity of the principle he had no doubt: indeed, it was recognized by the courts of law in a recent case, in which a captain of a merchant vessel was declared justified in the infliction of corporal punishment, for the due maintenance of the discipline of his ship. Then, as to the hon. member's argument about impressment, all that the Admiralty wished was, to prevent as much as possible the necessity of resorting to impressment, but nothing would be more impolitic than to abrogate their power of doing so, considering the deep responsibility which was vested in the government. It was the commercial marine which kept up a nursery for the war service; and unless the house was prepared to keep up in time of peace a maritime strength, which the sudden emergency of war might call forth, he was at a loss to see how the public service could, at such a crisis, be adequately provided for. He could positively say, that the service of the navy was never upon a better footing than it was at this moment; and he could with equal confidence declare, that the principle of the hon. member's motion was calculated to interfere with the maintenance of due discipline.

Mr. Robertson declared his conviction, founded upon practical experience, that the discipline of the navy could be maintained without the infliction of degrading corporal punishment. He had himself commanded ships in the Indian trade as large as vessels of war, and had often navigated them with a mixed crew, sometimes with only three real sailors fit for their whole duties, and yet he had done this without resorting to so severe a punishment.

Sir Joseph York said, that his hon. friend who had last spoken was greater than all the great men that had ever flourished in the navy; he was the very *Solom* of the sea, and ought at once to change his clothes and put on a full admiral's uniform (laughter), for never did man deserve it better. To navigate a ship like a man-of-war, with only three good navigators among the crew, was the greatest achievement he had ever heard of, and to his hon. friend ought henceforth to be given the trust of wielding in the highest rank the thunders of the British navy (a laugh). Then, as to the mode of conducting naval courts-martial, or even the solemnity of inflicting punishment, he could declare that the business was always done with as much system, scrutiny, and form, as characterized civil proceedings at home. How, then, could it be said that men of valour and honour were prone to severity and oppression? Were naval officers, in general, men of an unfeeling nature, or less sensible than other men to the influence of reason and humanity? And how, but upon the notion of their insensibility, could such a question as this be supported (hear, hear)? As to the crews, he did not deny but some two-thirds were good; he would, however, from his professional experience declare, that so far from moral lectures about personal character operating upon them, they might as well talk to pigs (a laugh). Some of them were as insens-

ible as brutes, and bore their floggings accordingly; indeed, they were classed as formerly the hard drinkers were—there were the five-dozen men as there had been the five-bottle men (a laugh). His firm persuasion, however, was, that the existing discipline, or, at least, the reserved power of inflicting it, could not be abrogated (hear, hear).

Sir F. Burdett said, that the subject before the house was one of a serious nature, involving matters of great national importance. However brilliant the faculty of wit might be which any member possessed, it could not be well displayed on so grave an occasion. To say the least, there was no good taste in showing oneself facetious upon questions which affected the sufferings of others, though it might be next to impossible among those who were listening to prevent the feeling of mirth. Now, as he understood the question, his hon. friend near him merely proposed to do that which had been the declared opinion of many able and intelligent men, who had written on the subject during a long time past; the alterations which he proposed had been over and over again recommended by captains, commanders, and other experienced persons; nor had one single statement of his hon. friend received the slightest answer from the gallant admiral who had undertaken that task. His hon. friend contended, that there was no necessity to engage force on the side of government to man the fleets, if they would only proceed by the known motives of human nature—by holding out sufficient inducements to sailors to encounter the perils which hung upon the lives of those devoted to the maritime defence of the country. Men taken by force and injustice into a toiling and dangerous pursuit, could only be kept down to the level of the discipline by other methods which were equally revolting to humanity. What then did his hon. friend propose? He merely said, "Let me, after well considering the subject, make one endeavour to show how you may get rid of all these evils, which every one of you must equally with myself deplore, by bringing in a bill." There needed no questions to be asked; the subject was fully known; all the world was acquainted with the shocking nature of the naval discipline and punishment. There was nothing wanting—there was nothing asked, but the liberty of bringing the propositions of his hon. friend before the house, for their adoption or rejection, as best suited themselves. The gallant admiral had treated his hon. friend as if he were incapable of comprehending these questions of practice—as if he could not be supposed equal to an opinion upon matters of fact. His hon. friend had proved too often his power that way, to make a formal justification necessary. Ministers knew, and so did the gallant admiral, that the head of his hon. friend was full of very useful facts; for he must have surprised each of them in their turn with the knowledge which he evinced of facts connected with their various departments. His hon. friend proposed to take from the officers of the navy the dangerous powers of coercion which they had hitherto held. How shocking was the idea of a beardless boy chastising a veteran seaman of a gallant and unquestionable character! His hon. friend did not propose to loosen the discipline; he only wanted to secure to the officers of the navy a time of reflection between ordering the punishment and executing it, that they might not do that in the

heat and hurry of their feelings—an error to which the best as well as the worst minds were liable—which their cooler reason would condemn. For this purpose he had proposed more formal proceedings in naval punishments. He was reminded, however, of the power of the provost-martial, when he had adverted to the milder discipline of the army. The provost-marshal was authorized, in the march of an army to order any man who had flagrantly broken through the discipline, to be hanged up. But the difference of circumstances which could alone justify the exercise of that power, was left out of the question. A general, marching through a foreign country with an army, for the conduct and preservation of which he was answerable to his government, might be compelled to do that which nothing but the absence of all law and established regulations could justify. Besides, the offences, whatever they might happen to be, would be committed in the face, or within the immediate knowledge of the troops; no doubt of the facts, no question of justice, could intervene to do away with the paramount necessity of good order and obedience. But if the provost-marshal, under other circumstances than those, were to exercise that power,—if he put it in force when time might, without inconvenience, be taken to clothe justice with her proper insignia, who could justify the act of the provost-marshal then? As to the plea of the navy having a portion of wretches among them whose principles and conduct could not be subdued without the roughest discipline, the answer was plain—they ought not to let such persons into the navy any more than they were allowed to be in the army. For what was the effect of it but to degrade and subject the honest, honourable, gallant men of our fleets to the low and brutalizing condition of the discharged felons? God forbid that he should have any other view than that of giving equal advantages to the officers; the country could not find means to reward them in a way equal to their actions. He would have their age provided with whatever was befitting to their ease and comfort, and they should pass the remainder of their lives, after bleeding for their country, in honour and happiness. He was of opinion that the country was able to do all this, and provide men, also, without having recourse to that home slave-trade—the impressment—far worse, in his mind, than the African slave-trade, and, as his hon. friend was prepared to prove, with many able and experienced writers who had gone before, more costly to the country in real pounds, shillings, and pence, than would be the fair rewards and bounties, which would be necessary to render the service a desirable object to a certain class of the people. One thing was clear—the motion would do good whether granted or not. His hon. friend had laid his plan before the house, and the effect of all such motions was to diminish the evils. It was now admitted that formerly there did take place, under pretext of discipline, acts of a most unjustifiable nature. He gave the Admiralty full credit for the steps which they had taken in the line of improvement; but it seemed to be with ministers as with some other great philosophers—they required the diligence of flappers continually about them, Parliament might get a little good out of them, but they must not forget the flapper.

Sir George Clerk said, that there had been no

case made out by the hon. mover to justify the house in allowing him to tamper with a subject so serious as the existence and welfare of the navy. The endeavour to assimilate naval with regimental courts-martial was obviously improper, because of the necessary authority which must be left, for safety as well as discipline, with the several officers of the ships. The idea of lessening the severity of the discipline by it was altogether erroneous. The inferior officers caused most of the punishments to be inflicted by the complaints which they found it necessary to make from time to time to the captain, who used his own discretion in remitting or moderating them. If this discretion were taken away, the punishments would be more formally adjudged, and consequently more positively enforced. As to giving the officers time, 24 hours or more, to reflect upon what was going to be done, in 99 cases out of every 100, much more time elapsed. The punishments were conducted with the utmost solemnity; the whole crew were called up to witness them. As to a strippling having the power to flog an old veteran, a gallant honourable seaman, undoubtedly if that were to happen, the young gent. would be sent home. The house must look at the delicate situation in which a captain was placed with the health, lives, discipline, and property which he had to protect. Then they must consider the nature of the offences by which that discipline was infringed—principally arising from drunkenness and theft. The number who must be kept in irons on some occasions, with others who must guard them, would make the hands scarce for navigating the ship. The captains were subject to the control of the Admiralty, who carefully examined into their books once a quarter. The first part of the plan of the hon. gent., for raising the wages, was unnecessary and impolitic. They could always get seamen at lower wages than the merchants could get them; so that the only effect of raising the wages in the navy would be to raise the wages of the merchant service. As to the argument which the hon. gent. derived from the fact, that there was no flogging on board the *Bellwark* for a certain portion of time, it would be just as good to say, that because in one assize-town there had been no execution, therefore the penal laws for inflicting capital punishments ought to be done away. As to limiting the term of service, and awarding pensions, that had been done 10 years ago; and a seaman who had served 21 years could claim his discharge, and 1s. 6d. per day for the rest of his life: a petty officer under the same circumstances, would be entitled to 45l. a-year. In altering the distribution of prize-money, the justice of the case was not so clear. A captain took a prize at considerable risk to himself, because if the vessel were not condemned in the Admiralty Court as lawful capture, according to the law of nations, he might be called upon for restitution. What captain, under more disadvantageous conditions, would encounter such a risk? The arguments of his gallant friend were conclusive—they ought not to tamper with a system under which the navy had prospered for so long a time.

Mr. Sykes had lived many years in a seaport, which had given him a correct knowledge of the horrors and crimes to which impressment gave rise. The town was commonly shaken with riots, growing out of this cause, though rarely by any other. Perjuries were multiplied, to

except individuals from the hardships of the service. A little boy got three fingers chopped off, by accident, from his right hand. His father congratulated himself that his child, when grown up, would not be pressed into the service. It was a system, taken together with flogging, altogether loathsome, brutalizing, cruel, and impolitic.

The house divided.—Against the motion, 45—For it 23—Majority, 22.

## LAW.

*Courts at Westminster.*

FRIDAY, APRIL 22.—The *Chancellor of the Exchequer* asked the learned member for Peterborough to postpone a motion of which he had given notice respecting the new courts of law. The *Chancellor of the Exchequer* was not aware till very lately that there existed any objections to the internal arrangements of those courts; but he had since learned that those objections were entertained by the members of the profession generally; and as he had every disposition to secure to the gentlemen of the bar every accommodation to which they were entitled, he did not doubt that upon the learned gentleman's entering into some communication with him upon the subject, some plan could be effected that might effectually accomplish the object which he seemed to have in view.

Mr. *Scarlett* stated, that the objection he had to urge against the court, had been laid before him by a number of gentlemen, who were highly competent to form an accurate opinion upon the subject. His objections were to the contracted size of the courts, and that, not only in respect of the accommodation afforded to the bar, but to the public generally. It was a fundamental principle in this country, that the proceedings at law were open to the great body of the people, and perhaps, no principle was more indispensable to the pure and impartial administration of justice. The size of the courts now erected was so exceedingly small, that in effect it amounted to an absolute exclusion of the people, and, excepting to the profession, trials would be perfectly secret. He should postpone his motion only on the understanding that the subject would be taken up with a proper spirit by the *Chancellor of the Exchequer*.

*Judges' Salaries' Bill.*

MONDAY, MAY 16.—On the motion that the house should resolve itself into a committee upon this bill,

Mr. *Leycester* said, this was not precisely the time for raising the salaries of the judges, when the hon. gent. proposed to make corn cheap and to take off a great number of taxes. He would not, however, oppose any measure which went to increase the respectability and independence of those learned persons, but he thought the house should avail itself of this opportunity of correcting many evils in the mode of administering justice. By a better distribution of the judicial power, the third circuit proposed might be made out without any additional labour to the judges. By putting three judges only, which would be quite sufficient, into the courts of Common Pleas, King's Bench, and *Exchequer*, three judges would be left to spare, and thus the new circuit would be provided for. He was also very desirous to see the Welch judges

ships abolished altogether; nothing could be more inconvenient, or unconstitutional, than the having the same man one day a judge, the next day a barrister, and the next day a politician.

The house then went into the committee.

The *Chancellor of the Exchequer* observed, that all admired and felt the benefit of the manner in which justice was administered in this country, and it was ever an object with parliament that the important situations of judges should be filled by persons in every way competent to discharge the duties of those high offices. With this view the legislature had passed several acts from time to time, providing suitable incomes for the judges, and removing from their office every thing which could in any degree lessen their dignity or diminish their respectability in the eyes of those for whose benefit they were appointed to administer justice. It was to those two objects he would confine himself on the present occasion. His motion would not extend to the Welch judges. His first object would be to carry into effect a recommendation of the commission appointed to inquire into courts of justice in England—namely, to prevent the sale of certain offices in their patronage by the Chief Justices of the courts of King's Bench and Common Pleas (hear, hear). This was a practice, which he would not say compromised the personal respectability of the eminent individuals who might hold those situations, but most certainly it did not tend to add any thing to the dignity of their judicial characters. It was true the sale of those offices by the Chief Justices was of great antiquity; for in an act passed under one of our ancient kings for the abolition of the sale of offices, the offices to which he now alluded were particularly exempted. But as he did not think that the antiquity of any practice was a sufficient ground for its continuance beyond the period of its utility, he should propose the abolition of the present as inconsistent with the high judicial dignity to which it was permitted as a source of emolument. He would state to the committee what were the situations, the sale of which he proposed to prevent in future, first observing that they formed part of the income of the situation of Chief Justices of the King's Bench and Common Pleas. They were reckoned as income, but it was well known that the emolument to be derived from them was very uncertain. A man might come into office as Chief Justice at an advanced period of life, and find all the offices of which he had the disposal filled by persons much younger than himself: the chances then were, that during a long period, perhaps the whole of his life, not one of them might become vacant, while his successor, after a few years in office, might derive the advantage of having them all become vacant. This in itself was a strong objection to the sale of the situations, as it was contrary to every principle of justice that that which was considered as part of the salary and emolument of individuals of such high judicial rank should be left to depend on chance (hear). The offices in the gift of the Chief Justice of the King's Bench, and which he was allowed to sell, were the office of chief clerk, a situation of great importance; the clerk of the treasury; *custos breviarum*, and clerk of the outlawries. These were offices of high trust, and of very considerable emoluments, which might now be sold by the Lord Chief Justice. Besides these,

there were a number of minor offices, though still producing large incomes, in the gift of the chief clerk, and saleable by him; and if it were proper that the Chief Justice should not be allowed to sell the situations in his patronage, it was also right that the same principle should be extended to the chief clerk, who derived under him. The Chief Justice of the Common Pleas had also a number of offices at his disposal, a greater number, indeed, than the Lord Chief Justice of the King's Bench. It was not necessary to trouble the committee with a detail of them, as they would all be stated in the bill which he should introduce. Suffice it then to say, that the same principle would be applied in both courts. Another object which he had in view was to prevent the fees received by the judges from being made a part of their salaries. This was wholly unbecoming the situation which those eminent persons held (hear, hear). It might happen that a suitor might refuse to pay his fees, and it would be absolutely necessary for the judge to take steps to enforce it, or else to forfeit that from which a portion of his income was derived. This, it must be admitted, was placing those learned persons in a painful and delicate situation (hear). With respect to the fees themselves, he did not propose to deal with them. He would say, let them be collected, as heretofore, by the present officers, and let them (after deducting the officer's salary) be paid into the Exchequer, to form a fund out of which part of the increased expenses of the new arrangements should be defrayed. The situation of the Puisne Judges was different from that of the Chief Justices and Chief Baron. They had 4,000*l.* a-year, part of which was paid out of the civil list, part from fees, and the deficiency, if any, was made up out of the consolidated fund. They were obliged at the end of three months to make a return on oath of the sums received in fees. So that, in fact, they were in some sort made public accountants, which he thought was altogether unbecoming their high judicial situations. These were the chief points to which he wished to direct the attention of the committee, for at present he did not intend to enter upon the other recommendations of the commission for inquiry into the courts of justice. As the sale of the particular offices he had mentioned formed part of the salary or emoluments of the Chief Justices, it was right that a fair compensation should be given for the abolition of that sale. At present, the fixed salary which the Lord Chief Justice of the King's Bench derived from the civil list was 4000*l.* a-year, liable to some deductions for land-tax, and some other fees and duties charged upon it. The remainder of his income was made up of fees and emoluments from various sources, which made in the gross about 9,500*l.*, and deducting the land-tax and other charges, it might be estimated at some few hundreds less than 9000*l.* It was hard to calculate the value of the offices which he had a right to sell, because to one judge they might produce an immense sum, and to another they might be wholly unproductive. Looking at the situation, at its high rank, and its laborious and important duties, he thought it would not be too high when he fixed the salary of the Chief Justice at 10,000*l.* a-year, in lieu of all present fees and emoluments. Next he came to the Chief Justice of the Common Pleas. That office was, as every body knew, in rank and

dignity, as well as in its judicial importance, in every respect inferior to that of Chief Justice of the King's Bench. However, as the Chief Justice of the Common Pleas would be called upon to give up the patronage of the valuable places he now held, he did not consider that 8,000*l.* a-year would be too much. It was certainly more than the present amount of the fees and emoluments of the office, but taking all the circumstances into consideration, there ought not to be too great a difference between the salaries of the two chiefs; for although he was not laying down the principle that no Chief Justice of the Common Pleas should be promoted at any time to the King's Bench, yet he thought it expedient to attach to the former office sufficient value to check too violent aspirations after preferment (hear, hear). Without going the length of saying such preferences ought never to take place, he would by no means wish it to be a matter of course. The next judicial officer to whose situation he should call the attention of the committee was the Master of the Rolls, who was higher in rank than the Chief Justice of the Common Pleas, and next to the Chief Justice of the King's Bench. The situation of that judge was peculiar in this respect—that his salary had not been raised when the last augmentation took place in the salaries of the other judges. This was owing to the unnecessary delicacy and disinterestedness of the then Master of the Rolls (Sir Wm. Grant). That eminent person had always declined applying for an increase, or even to state what the increase should be; and he must say, that his disinterestedness on the occasion had not met with the reward it merited. But if sufficient justice were not done to the situation at that time, there was no reason why it should not be at the present. The salary which that judge received, was not in all 4000*l.* a-year, partly derived from the civil list, and partly from Chancery fees: these he did not mean to touch till the committee appointed to investigate the subject had presented their report; and he laid no stress on the duties which the Master of the Rolls had to discharge in the Privy Council, or, if he happened to be a peer, by his attendance on appeals at the House of Lords: this application was not founded on particular circumstances, but on the ground that the present salary was inadequate: he should therefore propose to give to the Master of the Rolls a salary of 7000*l.* a-year. The same sum he would propose to the Chief Baron of the Exchequer. His office was one of great importance, the execution of which required great talents, not only in his capacity of equity judge, but the administration of common law upon circuit. The salary of the Vice-Chancellor he proposed to raise from 5000*l.* to 6000*l.* a-year. With respect to the Puisne Judges, he thought that the pecuniary emoluments of their situation ought to be such as to enable them to discharge their high duties in a manner becoming the rank they held. Their present salary was 4000*l.* a-year; but any one who knew what the profession of the law was, who considered its advantages, and the vast emoluments which men of talent and character were enabled to acquire, must feel that the worst policy was to make the judges' salaries so low, that men of eminence, character, and high abilities, could not, with a due regard to themselves and their families, accept the office until they arrived at a time of life when they required

ease, or were afflicted with some bodily infirmity, which required them to retire from the ordinary labours of their profession. His wish was to make them objects of honourable ambition to men of talent while yet in the vigour of their age (hear). With this view, he would propose that their salary should be 6000*l.* a-year. It was true, they had nothing to give up: they had no fees to relinquish; but he thought it desirable that the advantages of the situation should be such as that those who were appointed to it should not be anxious to get out of it as soon as possible (hear, hear). From the manner in which his remarks had been received by the committee, he trusted that what he had proposed would be agreeable to the house. He hoped that no mistaken notion of economy would induce any hon. gent. to oppose propositions which, in his opinion, and in that of many others who had gravely considered the subject, would contribute so much to the dignity of the high judicial offices of the country, and to uphold the character which the English law enjoyed, not only among ourselves, but in the eyes of all enlightened foreigners who had had an opportunity of witnessing its administration. He had omitted to state that the sale of the offices of Chief Clerk, Custos Brevium, and other offices in the immediate disposal of the Chief Justices, should cease the moment the proposed bill became a law. There were, however, some offices at present in the disposal of the Chief Clerk, to which it was not for the present intended to apply the same rule, and on this ground, the chief clerk, and some other high officers, derived their authority to sell certain subordinate offices, from having themselves purchased their own situations. It would not be fair, therefore, to take from the benefits of the purchase which the law sanctioned. It was not, therefore, intended to interfere with their interests.

The resolution was then read. It embraced all the alterations which we have given above.

On the question being put from the chair,

Mr. Denman said, there was so much of the principle of the statement of the Chancellor of the Exchequer, to which he assented, that before he adverted to the points where he differed, he would state what those were in which he agreed. He agreed in that proposition which went to prevent the fees taken in courts of justice from forming any part of the salaries of judges. With regard to the abolition of all emoluments arising from the sale of offices and fees, there could be no doubt of its propriety. He was quite ready to make an adequate compensation to the Chief Justices for the loss they might sustain by the abolition of such emoluments, and of the sale of the offices, but beyond that he was not willing to go. He could not see any ground for giving the Chief Justice of the Common Pleas an increase of salary; the office was of much less importance, and its duties less numerous than those of the Chief Justice of the King's Bench, and he saw no reason why the situations should be so nearly assimilated in point of emolument. With respect to the Master of the Rolls, the *rt. hon. gent.* stated the salary to be 4000*l.* per annum. That rate of salary arose solely from the distinguished conduct of one eminent judge; but if Sir W. Grant had chosen to accept a salary equal to the Vice-Chancellor, the house was at that time ready to grant it; and the Rolls Court

should be placed on a footing at least equal to that creation of an act of parliament, the Vice-Chancellor, which was an office of inferior rank. With respect to the other judges, no case whatever had been made out. He was in the habits of daily intercourse with many of those learned individuals—an intercourse of great kindness on their parts, and of sincere respect on his. He regretted, therefore, that he felt himself bound to oppose any measure which might be intended to add to the dignity or advantages of their situation; but he had a constitutional objection to seeing propositions made from time to time for increasing the salaries of judges by the House of Commons, which was itself under the influence of the government. The judges themselves did not, he was sure, desire the increase. They had made no application for it; they had now 3200*l.* a-year, after deducting the expenses incidental to their situation; and this was more than they had in 1809; for when their salaries were raised on that occasion, they were subject to the property-tax, an impost from which they were now free. He objected to the principle of making the salaries of judges subject to such fluctuations; it would be more becoming the dignity of their situations to have a fixed sum, to be received at all times, without deduction, than to have a salary varied by particular circumstances. Where additional labour had been imposed, he could see the necessity for additional compensation; and he thought the judges would have acted wisely if they had refused to undertake the additional duties which were recently imposed on them, for, in addition to their own labours, by lengthening the terms, they had occasioned a division of the labours of the bar, which had led to the most inconvenient results to the public administration of justice. However, as that was done, it might be very proper to increase the salaries of the judges of the King's Bench, but he could see no reason why the increase should extend to the Common Pleas, and the Exchequer. For instance, perhaps at the moment he was speaking, being the last day of Term, the King's Bench were sitting, as the Court was so much in arrears of business, whereas the judges in the Court of Exchequer had all left the court at one o'clock, and indeed, in Term time, they generally came down to court between ten and eleven, and rose at twelve or one. It was said indeed that the object of the increased salary was to enable the judges to discharge the duties of their high office with propriety and dignity. But this they did at present (hear, hear, from the Chancellor of the Exchequer). If this were so, he could see no reason why the ministers of the Crown should make them this present. It was an invidious task for any man to oppose the grant; but if it were not resisted, the same practice might be repeated from year to year. If it was intended that the larger salary should be an inducement to men of great talent and in full practice to accept of the judicial situation, he thought it useless. He had never heard of any gentleman at the bar who had refused an elevation to the Bench on the ground of an inadequate emolument. It was not mere emolument that made men desirous to obtain the situation, but the dignity and elevation of the office; and besides that, the certainty of its continuance for life. The active man in full practice, who devoted day and night to the duties of his pro-

feision, was not a man who would refuse the Bench: he was making a fortune which might thereafter be adorned by the dignity of the Bench: in such a situation he should be inaccessible to every sordid feeling; but no mode was so effectual to produce this feeling as exciting constant hopes and fears. Let it be understood, that when once a Judge, he must not look forward to be a Peer; or if once a Puisne Judge, to be raised to the Chief Justiceship; in fact, that there should be no translations, which, in other pursuits, we had seen attended with such mischief (hear, hear). The third assize had certainly imposed additional expense on the judges, and as far as it had gone, was productive of benefits; but the judges were in a situation now in which he was sure they enjoyed the respect and confidence of every man in the country; and it appeared to him, that the salaries of the Puisne Judges would be raised one-half, without any proof that a single individual of professional eminence had refused the Bench on the ground of inadequate remuneration. No case had been made out for conferring on them this *bonus* of two thousand pounds per annum. It could not raise them in the scale of society; they must be contented to hold respectable stations in a middle class; they would still be much poorer than most of those who were then voting the increase, and they would be more respectable as they were than at the tail of a higher walk in society; they must still confine themselves to those purloins of the town which had recently been spoken of with so much contempt, that one hon. member had said, "he didn't know of such a place as Russell-square" (a laugh). But with their six thousand pounds a-year they would make but a poor figure in Grosvenor-square (hear, hear). On the whole, he could not conceive any arrangement more likely to place the judges in a situation which all alike were disposed to deprecate. He was ready to accede to the augmentation of the salaries of the two Chief Justices; but, with respect to the others, he felt it his bounden duty—and he need scarcely say how painful a duty it was—to resist the proposition, because he saw no good ground for its adoption.

Dr. Lushington regretted being obliged to differ from any of those friends with whom he was in the general habit of voting. He entirely differed from his learned friend, and it was because he thought that the dignity of the bench would be increased by the proposed addition to the salaries, that he supported the motion.—It was said that the judges had not complained of their present salaries. It was true they had never degraded themselves by a petition to the house or to government for an increase; but if it were meant to be asserted that they did not feel the inadequacy of their present salaries, he must from his personal knowledge give the assertion a direct denial. In order to ascertain whether or not the salaries were adequate, the house must estimate the quantity of duties to be discharged by the judges and the expense incurred by them. The labour and expense of the assizes had been materially increased. It was for the interests of justice that the government should be enabled to engage the talents of the most learned men at the bar at a time when those talents were in their prime, and when the corporeal faculties of those who possessed them were still vigorous and unimpaired. The consequence of pursu-

ing a contrary system, was, that when the government appointed individuals to the situation of judges, at the miserable pittance which was now assigned to them, they often remained in harness until they were quite incompetent to discharge the business of the public. Such an occurrence was an evil of a very serious nature; and he would rather see judges appointed at an early period of their life, and retire when their bodily faculties began to decay, than see them promoted to the bench at the very moment when they were least able to perform the duties of it. But it might be said that there was no difficulty in getting individuals to undertake the office of judges under the present system. Allowing that to be the case, still it did not affect the view which he was taking of this question. The great dignity of the situation was calculated to render it an object of desire to many members of the profession; but was that a reason why an individual should be allowed by the public to sacrifice in its service that time and that talent which every man ought to render profitable to the interests of his family? It was an unjust barter to make any man give up to the public, without adequate remuneration, that time and those exertions on which his family had a powerful, and he would also add, a legitimate claim (hear). For this reason, and many more, he greatly approved of the addition which the rt. hon. gent. opposite proposed to make to the salary of the Puisne Judges (hear); nor was he convinced by the arguments of his learned friend (Mr. Denman) that a difference ought to be made in the salaries of the judges of the different courts. His opinion was that a more desirable method than that of apportioning the salaries of the judges to the quantity of business transacted in their respective courts, would be to make the Court of Common Pleas and the Court of Exchequer share the business of the Court of King's Bench; and instead of overloading that court with a quantity of business which it could not well perform, to provide for such a general distribution of suits among the two other courts as would ensure to them all a fair equality of labour. The obstacles to such an arrangement were not very important. There was a difficulty in the way of throwing additional business into the Court of Common Pleas, because no person could plead in it who was not a serjeant. He for one could see no reason why that monopoly should not be broken up (hear). There was also a difference between the amount of the costs paid in that court and in the Court of King's Bench. With regard to the Court of Exchequer, all its business must be transacted by a certain number of privileged clerks; and in consequence of the suitors having to pay, not only the fees of their own attorney, but also those of the clerk of the court, very few actions were commenced in it. Now, if all the courts could be placed on an equal footing, and could be made equally economical to the dispendants, he could see no reason save one, why the business of the country should not be equally distributed among them, not only with benefit to the country, but also with benefit to the judges who presided in them. There was also another reason why he thought the salaries of the judges ought to be altered, and that was the great increase of the criminal business of the country. The assizes of the Old Bailey now took up twice as much time as they did some 20 years

ago. The business of a third assize had become a matter of imperative necessity in the counties near London; for though that measure had been tried as an experiment for the last three years, the criminal business had been so great at the last Lent Assizes, that the judges had been unable to dispatch the civil business of the home circuit. He saw no reason why the jurisdiction at the Old Bailey, which now took cognizance of offences committed in London and Middlesex, should not also take cognizance of similar offences which took place in other parts of the metropolis which lay within the bills of mortality (hear). The *rt. hon. gent.* had said, that he should raise the salary of the puisne judges to 6000*l.* a-year, in order to give them a fixed and settled situation. He considered that as a point of the very last importance, especially when he recollected—and he could not mention the practice without bestowing on it his severest censure—that puisne judges of the Court of King's Bench and also of the Common Pleas, had been elevated to the situations of Chief Justices of those Courts in no less than seven or eight successive instances. Such a practice he for one should ever deprecate; it was keeping judges in the constant expectation of preferment, and unless they could divest themselves of the ordinary feelings of men, was leading them to the hope of obtaining promotion, by conciliating the favour of those who had promotion to bestow. In making these remarks he had no intention of alluding to any particular case; he stated that which every member must admit to be fact, who knew any thing of the feelings of human nature. It was detrimental at once to the respectability of the judges, and to the pure administration of justice, that judges should become accustomed to look for preferment to the ministers of the Crown. He did not say that any act should be passed, or regulation entered into, to prevent the Crown from exercising its prerogative in promoting a puisne judge of great virtue and exalted talent to the highest situation in his court—such a power should be rarely exercised, and instead of being a matter of daily practice, it should only be resorted to on extraordinary occasions (hear, hear). There were one or two subjects, not altogether unconnected with the present question, on which he would say a few words. He would give the judge liberty to pass sentence at the Assizes, upon any person convicted before him of misdemeanour, reserving, however, to the Attorney-General the right, if he thought proper to exercise it, of bringing the individual up to London to receive the judgment of the Court. Such an alteration in the law would be beneficial to every party. For what was the consequence of the present system? On the one side the time of the Court of King's Bench was occupied—and this was notoriously the case in all offences against the revenue—in hearing numerous affidavits in mitigation of punishment, and very often very long speeches in support of the facts sworn to in such affidavits; and on the other side, parties were frequently brought to town, and kept there at a great expense, to receive sentence, or remained imprisoned in the country for six months, in the interval between verdict and sentence, which was in itself no inconsiderable punishment. The existing system was, therefore, detrimental to the judges in overloading them with business, and in wasting their time in many instances upon trifling offences, and to

the culprit in drawing him from his usual avocations, and in depriving himself and his family of those exertions which he might otherwise have been making to procure his subsistence. He therefore thought, that without deviating from the effective administration of justice, it might safely be left to the discretion of the judges of assize, to pass sentence in the country upon such persons as were there convicted before them of any ordinary misdemeanour. He would now say a word or two on the proposition of the *rt. hon. gent.*—that all fees now received by the officers of the different courts, should be paid into the Exchequer, and thence be transferred to the consolidated fund. Now that proposition, he thought, must depend greatly upon the nature and extent of the fees received. He therefore trusted that the *rt. hon. gent.* would keep his mind open upon the subject. In some cases, it was clear that an adequate remuneration ought to be provided for the officers who received them, whilst in other cases, where they went to swell the funds of officers who held sinecures, it might be matter of consideration how far they ought to be continued. He thought that in all cases the fees ought to be reduced to such an amount as would give a fair remuneration to the officer who received them for the duties he performed, and that whatever exceeded such amount should be abolished as impeding the due execution of justice. He concluded by stating his general approbation of the scheme proposed by the Chancellor of the Exchequer.

*Mr. John Williams* expressed his regret that the *rt. hon. gent.* opposite, in the measure he had just detailed to the committee, had not proposed any amendment of the evils of the present system. His learned friend (*Dr. Lushington*) had proposed several important alterations in our judicial system, which he should have been most happy to have seen countenanced by the *rt. hon. gent.* opposite. The unequal distribution of business in the three Courts—the late period of life at which the judges were appointed—these and many other points deserved as much attention as the mode of paying the judges. With respect to the salaries proposed to be given to the Chief Justices of the King's Bench and of the Common Pleas, it appeared to him to be extremely reasonable, that an ample compensation should be made to those two magistrates for the loss of the emoluments they now received from what was thought an objectionable quarter. That compensation should be measured by the loss which they absolutely sustained by the deprivation of the fees to which they had hitherto been entitled. The addition which it was proposed to make to the salary of the Master of the Rolls, and of the Vice-Chancellor—and for the last no reason whatever had been given—was so trifling that he would pass it over without further notice. The addition it was proposed to make to the salaries of the puisne judges, he considered the most important part of the scheme then before the committee. He had listened with the greatest attention to the *rt. hon. gent.* in the expectation of hearing him mention some instance of an individual refusing the situation of a judge on account of the inadequacy of the remuneration; but he had not heard him mention any such instance (hear). He had likewise listened in vain for any mention of the time of life at which the judges were either to commence or resign their functions. The opinion that a man was not

qualified to be a judge till he had become an old man, was now exploded; it was almost as absurd as that which represented a man not fit to command an army until he had served five-and-twenty years, and was obliged to be carried in a litter from station to station. A judge, besides possessing learning and judgment, should also possess those corporeal qualifications, which a critic of old deemed essentially necessary to the orator—a quantity of *latus et mirum*. Now he would appeal to all those who had the experience of the last five-and-twenty years, and those who had more must be almost as old as the hills (a laugh), whether the Judges who had been appointed during that time, had not upon the average been 60 years old at the time of their appointment. That was a period of life at which the mercer, the tobacconist, and the sugar-baker, were accustomed to retire from their respective occupations, because their minds were as unequal as their bodies to undergo the labours of them; yet at that very period, the learned Judges of the land were put upon an arduous duty, which compelled them to undergo fatigue of the severest nature, at a time when, to say the least of it, their mental and corporeal faculties were both waxing to decline. In other words, the public was to be served by men who, if they remained at the bar, would have been deemed incapable of serving individuals. He had not heard that the time of a judge's service was in future to be from 45 to 60 years of age; yet he thought that such a limitation would have been better than letting it run from 60 to 80, or even 90 (hear), or whatever later age was deemed the perfection of judicial wisdom (hear, and a laugh). In his opinion some such limitation was necessary, since no judge, in his experience, with the solitary exception of Sir W. Grant, who was above all eulogy, had ever retired, or evinced the slightest inclination to retire, before the decay of his faculties. He then proceeded to notice the great disproportion of business which existed in the three courts at Westminster. He had that day heard from a learned gent. who practised in the Court of Exchequer, that all the civil causes which that court would have to try at its sittings after term would be about seven, and certainly not more than ten. Now, in the last sittings of the Court of King's Bench the causes entered for trial at Westminster alone amounted to 250; while in the sittings of the Court of Common Pleas for the same place the number was only 25. Independently of the fashion, which led clients into that Court where the most popular advocates practised, there were two obstacles to the admission of business in the Court of Common Pleas and in the Court of Exchequer, which had been noticed already by his learned friend below him. In the Common Pleas there was a closure as to the counsel; in the Court of Exchequer as to attorneys. The consequence was, that an overwhelming weight of business was flung upon the excellent magistrates who presided in the Court of King's Bench. His learned friend had suggested a mode of distributing it more equally among the other judges; but upon that as upon many other points, the rt. hon. gent. had carefully refrained from uttering any expressions which could lead the committee to anticipate any amendment of the existing system.

Mr. Peel said, that at present the whole clear amount of the emoluments of the puisne judges

did not exceed 3,200*l.* a year; and the consequence was, as the learned gent. opposite had stated it, that during the last 25 years no judge had been appointed to the office until he had turned 60 years of age. Was not that circumstance conclusive proof that there was something faulty in the present system? And was it not also a strong ground for conjecturing that if the proposition now before the committee were adopted, the country would soon acquire the services of judges with those *latus et mirum* which the learned member for Lincoln deemed so necessary to the just performance of their duties? If a suitable remuneration were offered, there would be no difficulty in procuring the services of men of talent whilst they were yet in the prime of life and in the full vigour of their understanding (hear). The salaries of the judges ought to be adequate to support the dignity of their station, and it should not be compulsory upon them to defray part of their necessary expenditure out of the fortunes which they had previously acquired. Let the salary be fixed at 5,000*l.* at 6,000*l.*, at 7,000*l.*, or at any other sum which the committee might deem sufficient for the maintenance of their dignity; but let it not be said that a man must possess 60,000*l.* before he is qualified to sit on the judicial bench (hear). The learned member for Lincoln had complained that this resolution was not accompanied by any details of proposed improvements, but as the house was in a committee for a pecuniary grant, the present was not a fit opportunity for entering into a detailed statement of projected improvements; the committee however would see that the carrying this resolution into effect would give the Executive Government great facility in making any such improvements, if they should hereafter be deemed necessary. At present it was impossible to reduce the fees of several of the officers of the different Courts. They had given a pecuniary consideration for their offices, and the fees therefore could not be reduced without injustice to the holders of them. If, however, it should seem good that those who now received them should have a remuneration in lieu, the amount of those fees might easily be regulated. He agreed that the future amount of them ought to be proportionable to the service performed, and that if the purposes of justice would be promoted by the reduction of them, they ought to be reduced without delay. The learned member for Ilchester had mentioned another circumstance, which was a strong argument in favour of the present measure. He had stated that in seven or eight successive instances puisne judges had been promoted to the chief justiceships of their respective courts. Might not that circumstance arise from the inadequate remuneration which those learned personages received? Might it not originate, nay had it not originated, in the circumstance that individuals of great practice at the bar had refused to give up their emoluments for those belonging to the bench? He assured the committee that the circumstance had not arisen from any wish on the part of the Government to exercise an undue influence over the judges, but from the reluctance of the leaders at the bar to undertake those offices with their present inadequate salaries (hear, hear). With regard to the remuneration to be afforded to the Chief Justices of the different courts, the committee ought rather to consider the amount of salary which was adequate to the office, than the loss



which the individual holding it was likely to sustain. The amount of fees belonging to the Chief Justice of the King's Bench was 9,250*l.* a-year. Now, the Chief Justice, by the present resolution, would not only lose the amount of these fees, but also the advantage of selling different offices in his court as they respectively became vacant. It would be difficult to calculate the exact amount of that loss; and therefore it became necessary to fix in an arbitrary manner upon some determinate sum for his salary. He (Mr. Peel) thought that 10,000*l.* was the lowest sum which the committee could fix; but if he were asked to demonstrate why that was the exact sum to be fixed upon, he would own that he was incapable of doing it. He protested against the principle of making any distinction between the Judges of the different courts. As they had all to administer criminal justice at the assizes, the difference in their salaries might lead to a general belief that there was a difference in their dignity; and that might give rise to a jealousy between counties, when they found a judge with a higher sent to one, and a judge with a lower to another. He looked with favour upon some of the propositions of the learned member for Ilchester, particularly upon that of throwing open the Court of Exchequer to all attorneys. Whether it would be equally right to throw open the Court of Common Pleas to all the rank and file of the profession, he would not at that moment pretend to determine; it was a question of some importance, and required greater consideration than he had yet given it.

Mr. Scarlett thought that 10,000*l.* a-year was an inadequate salary for the Lord Chief Justice of the King's Bench, and below the average emoluments which he received at present. The committee ought to take the gross receipts of a certain number of years, and to regulate the salary, not by the annual emoluments of any one individual Chief Justice, but by the general annual average of them all. If such a calculation were made, he believed that 10,000*l.* would be found less than the average annual amounts of the receipts of the office. He had heard that night for the first time, what the office of the Chief Justice of the Common Pleas was worth; and he thought that any body who knew the duties of both offices would prefer being Chief Justice of the Common Pleas, with a salary of 8,000*l.* a year, to being Chief Justice of the King's Bench, with a salary of 10,000*l.* a year. Government ought always to have in the situation of Attorney-General an individual qualified to discharge the office of Lord Chief Justice; and that being admitted, the salary of the Lord Chief Justice should be raised to such an amount that no Attorney-General, when called upon to become Chief Justice of the King's Bench, should hesitate to do so, on the ground that his emoluments as Attorney-General were superior to the emoluments of the Lord Chief Justice. With regard to the salary of the puisne judges—and he cautiously abstained from giving any opinion as to whether the salary of 6,000*l.* now proposed was too high or not,—they ought not to be raised to such a sum as to render them the objects of political favour and intrigue. No man ought to fill the situation of judge who had not previously had considerable practice at the bar—first, because that practice must have procured him, unless he were an extravagant man, a considerable fortune; and secondly, because it must have accustomed his mind to

the technicalities of law and to the complicated questions which sometimes arose out of them. When James I. wished to decide a legal argument and said to Lord Coke “Why am I not as fit to decide on such a question as you—you say the law is the perfection of reason, and surely I possess as much reason as any subject?” Lord Coke replied, “Your Majesty is not fit to decide upon it. The reason of the law is a technical reason, which can only be acquired by experience; and that experience your Majesty wants.” If only those men were made judges who had considerable practice at the bar, it was probable they would have acquired such competent fortunes as would render any very large salaries needless: those salaries ought not to be such as to make the situation a good provision for the younger sons of noble families, without respect to opposite qualification. In ancient times more than one instance had occurred of the appointment of a judge because he was a near connexion of a possessor of boroughs. It might therefore be not desirable to raise the salaries of the puisne judges so much as was now proposed. When the salary was only 2,500*l.* a year, such men as Lord Kenyon, Mr. J. Buller, and Mr. J. Ashurst, were not deterred from accepting the office; and he remembered a judge not above thirty-six years of age who disposed of five or six and twenty causes a day satisfactorily at Nisi Prius. He denied that the business of the Court of King's Bench had increased of late years—on the contrary, it was not of late as great by a good deal, as it had been 9 or 10 years ago. But by a late act of Parliament one judge in his turn quitted the court at three o'clock, to take upon himself business which used to be transacted in the evening; this departure of one of the judges was felt excessively inconvenient for the business pending at the time in full court, for it interrupted the argument in progress, and led to a postponement, when probably the full sitting until four o'clock, would have finished it. With respect to the proposed arrangements regarding fees, there were some of them which he deemed bad, and would not maintain, while there were others, the continuance of which would be thought beneficial. Of the former, were those taken for offices, such as the sealing writs of error, that were done by deputy—all those he thought bad; but those which he proposed to maintain, were the fees, however small, taken for acts done by the principals themselves; these he had always found conducive to the dispatch of business.

The Attorney-General remarked, that his learned friend (Mr. Williams) had, when he spoke of the judges of the Court of Exchequer, forgotten that they had other and heavy business besides revenue causes to adjudicate; such as the sittings in equity in Gray's Inn hall after term. The bill which had altered the mode of doing business in the Court of King's Bench, originated in the following circumstances. In Lord Ellenborough's time, there was a great accumulation of business in arrears, and the judges of the court felt it their public duty to sacrifice their private comfort and convenience, and to sit out of term in Sergeant's Inn hall, to keep down this arrears. Notwithstanding these efforts, the arrears continued during the whole time of Lord Ellenborough's chief justiceship, and was found in that state by his successor. The subject was then reconsidered, and it was

found, that the judges during these sittings out of term, could only hear arguments, and not give judgments; to remedy which inconvenience the bill alluded to was brought in. It was therefore a little hard after this sacrifice made by the judges in giving up their vacation to the public, to complain that they did not as before continue their evening sittings in chambers: it was not just to the judges so to speak of their labours, when day after day, questions of difficulty often arose, which from their very nature, required that the judges should have their evenings to themselves for the purpose of reflection and consideration; and when one of the judges left the Court at three o'clock, the public business was not retarded, for the remaining judges still went on with other business equally necessary to be transacted in full court. As to the general question, the proposed alteration would not give the Chief Justice of any of the courts a higher income than he had at present, including fees. The pecuniary emoluments of the Chief Justice of the Court of King's Bench were said to be 9,000*l.* a-year, besides the appointment of his chief clerk. This clerkship he had either the power to dispose of, or to sell. Lord Ellenborough kept it, and added its amount, which was 7,000*l.* a-year, until he gave it to his son, so that he must be considered as having had it for two lives, and as enjoying from his Chief Justiceship an income of 16,000*l.* a year. These circumstances must be considered when they estimated the income of the office, and took from it all fees and patronage. It was known that Chief Justice Eyre had, during his time of filling the office, received 30,000*l.* for places he had disposed of; so that the same observations applied to the situation of Chief Justice of the Common Pleas. As to the puisne judges, let it not be supposed, as some gentlemen seemed to think, that they had puisne judges from members in that walk of the profession who had had previous opportunities of amassing fortunes for their families. Those who thought so were not acquainted with the details of the law—they overlooked the expensive nature of the education required for such a profession, and that there was no prospect of any return arising from it, until the individual had at least passed 30 years of age. Then suppose such a person to be made a judge when 40 years old, what opportunities could he be reasonably supposed to have had in amassing a fortune for his family? Very few judges in his time had found such opportunities. But it was said, where is the instance of any person having refused a judicial office upon the ground that he could not afford to support the dignity of such a station? One of the most learned judges on the bench, Mr. Justice Dampier, when offered a puisne judgeship, declined it on that account; but a few years after, when ill-health had befallen him, applied for and obtained the office, in the administration of which he shortly after died. There was a case in point. Then, as to the amount of salary: what was 3,200*l.* to support the rank, and station, and expenditure of a judge? If a man at the bar had that income, it was possible for him to lay by 2,000*l.* a year of it by the economical regulation of his expences: but a judge could not do this without lowering the dignity of his office; neither could he appropriate any part of such a sum for the ulterior

provision of his family. An alteration in the incomes of the judges had therefore become absolutely necessary; he would not say whether this was, or was not, the precise scale upon which the alteration should be fixed, although he thought the proposed addition sufficiently moderate. As to what had fallen from some of his learned friends opposite, respecting other arrangements in the administration of justice, he could assure them, that he would direct his attention to their suggestions respecting the arrangements of the Court of Exchequer; at the same time, he felt it to be a difficult question, as the Exchequer was a Court of equity as well as law. Besides, it by no means followed that if that Court were thrown open to more general business, the business of the King's Bench would diminish; for wherever there was a favourite Court (as the King's Bench was), there the rush of business would still continue, and merely leave, at particular times, its overflowings to pass into the other Courts. When gentlemen considered what was the situation of the office of judge, he called upon them to see how they were often borne down by the pressure of their professional business, and to reflect how much better it would be were they able to devote themselves occasionally to the cultivation of the science and literature which formed a part of the studies of their youth, and to become more identified with the pursuits and business of the world. He was disposed to give every facility to the suggestions for altering the mode of business in the Courts of Exchequer and Common Pleas; and he saw no reason why the latter should not be open to the King's counsel and juniors of the profession, in the same manner as the Court of King's Bench was to sergeants.

Mr. Hume had listened with great attention to what had been said during this discussion, and never recollected a question which seemed so little ripe for decision. The gentlemen of the profession were all at variance upon it, and the supporters of the measure had failed in showing that for half a century, except in one solitary instance, any member of the profession had refused the office. Where, then, was the difficulty of getting able men to fill the bench? And without that difficulty, where was the necessity for this motion (hear)? Why should they give large emoluments to public servants who made no complaint of their being insufficiently remunerated? But it was said that a judge ought to have time for scientific studies. How would increasing his salary give him more time for such acquisitions, or afford him any relief from that mass of business with which it was alleged he was now overwhelmed? If they began in this manner, they would be called upon to go on augmenting the salaries of public officers, until the Government would have an excuse for refusing the people that reduction of the public burdens which the condition of the people so imperiously demanded. Were they to legislate on the single exception of Mr. Justice Dampier's refusal—that was, upon one occurrence in 50 years? There was, he contended, no ground before them for the motion, which at all events ought to be preceded by a commission, or a committee, to inquire into the duties and emoluments of the judges. They had a right to know the value of the 40 offices which were understood to be in the patronage of the chief

justices of the Courts of King's Bench and Common Pleas. It was an enormous step to increase at once the puisne judges' salaries from 3,200*l.* to 6,000*l.* a year. Now that money was finding its proper value, the Government might think of reducing, not increasing, the burdens of the people. The measure was ill-timed; and if any amendment were offered, he should support it.

Mr. Denman then said that he would adopt the suggestion of proposing an amendment. No reason had been given for altering the salaries of the puisne judge, except the single exception of Mr. Justice Dampier's case. It struck him (Mr. D.) as extraordinary, that while the Government avowed such a desire to encourage men in the prime of life to undertake the office of judge they should have so recently appointed a chief baron who was seventy years of age. The learned gent. then moved as an amendment, "that no part of the emoluments or salaries of the two Chief justices of the Courts of King's Bench and Common Pleas should in future be paid out of the fees or the sale of offices; and that a reasonable compensation should be allowed the same in lieu thereof; and also that the office of Master of the Rolls should be put in point of salary upon the same footing as the Vice-Chancellor."

Mr. H. Drummond thought that he might well recommend the Scotch judges to the liberality of Parliament. He spoke the sense of his constituents when he declared that nothing would be more grateful to them than a reasonable addition to the salaries of those very useful public officers. He gave his cordial support to the motion, though there was nothing in the amendment which he felt disposed to oppose.

The Chancellor of the Exchequer said, there might be very good grounds for increasing the salaries of the Scotch judges: the circumstances of their case differed so materially from those of the English judges, that they were not necessarily connected with the deliberations of the house. The salary of the Master of the Rolls in Ireland, for example—had been augmented since the increase of the salaries of the English judges.

Colonel Bagwell urged the necessity of improving the salaries of the puisne judges in Ireland.

Sir F. Burdett said, from all that he had heard, he was convinced of two things—that he was not competent to form an accurate opinion upon the whole of the subject; and secondly, that the house was in possession of no information on which they ought to act in a measure of so much importance. The arguments of the advocates went to show, that the Judges had more extensive duties to perform than they were able to perform; and this, it appeared, was to be remedied, not by an increased number of Judges, or by any other mode of doing business, but by what?—an increase of salary. The whole of Europe agreed that our laws required revision, but this was not the mode chosen by Government to decrease the mass of business. If any increase of salaries to the Judges would enable the people to come into Court and obtain justice with little expence and with little delay, this would indeed be a great national benefit; but nothing of this sort was even pretended.—It was said that the present salary was not sufficient to induce men of talent and learning to accept of judicial situations; if so, he was ready to make

the emoluments of such officers equal to the expectations of men of talent and ability. He could not, however, agree with those who entertained such an opinion.

Mr. Scarlett moved an amendment upon the amendment, for fixing the salaries of the chief justices by the average of the emoluments of the last 20 years.

The Chancellor of the Exchequer said that the plan was not so fair as it appeared to be. Some of the judges in the succession profited largely by the sale of the offices under them; with others none fell vacant during their whole public life. The present chief justice had as yet made nothing of his office, and if infirmity should require him to resign, he would have no benefit from his long service.

Mr. Hobhouse objected to enlarging the salaries. It was characteristic of human nature, that a man might be tempted from his honesty by 6,000*l.* a-year, whose integrity would not be shaken by 4,000*l.* There were 650 barristers in practice, and no less than 500 places to divide among them. In one court there were 125 places. In this court one person connected with the first office in the state held four offices. These were cases far more worthy of the labours of the *rt. hon. gent.*, than the raising of the salaries of the judges.

The amendments were severally negatived without a division.

Sir John Wrottesley then proposed as an amendment, in respect of the salary to the puisne judges, to substitute 5,000*l.* instead of 6,000*l.* per annum.

Mr. Denman remarked on the inconsistency of which the framers of these resolutions would be guilty, if they left the Lord Chief Justice of Ireland with a less salary than one of the puisne judges of England.

The amendment was negatived without a division.

FRIDAY, MAY 20.—The Chancellor of the Exchequer moved that the order for receiving the report on the resolutions relative to the increase of salary to the judges be read.

The order was accordingly read.

The Chancellor of the Exchequer, in moving that this report be received, took occasion to notice certain observations that had been made on a former evening respecting the proposed increase to the salary of the judges. Understanding it to be the wish of the house that the retired allowance of the puisne judges should be reconsidered, he had devoted his attention to that point, and it had led to a modification of the full salaries (hear). His object, as he had already explained, in proposing 6,000*l.* a year to the puisne judges, without any proportionate increase of the retiring incomes, was two fold—1st, to induce younger men of eminence in the profession to undertake such offices; and 2d, to make the income such as would be worth the acceptance of men of great prospects in the profession—neither of which considerations had been, he thought, sufficiently attended to in the existing state of things: He had also considered the subject of promoting judges from one situation to another, but had not come to any fixed conclusion upon it; for though he thought it a highly prejudicial principle that promotion on the bench should be made a reward for the discharge of particular duties in that high station, yet he felt it would be going too far to say that in no case should it

be competent for the government to make such promotion (hear). With respect to the retiring allowances, and the consequent modification of the full salary, he proposed to deduct 500*l.* a-year from the original proposition of 6,000*l.* a-year to the puisne judges, and to add the 500*l.* so deducted to the retiring allowance of 2,500*l.* a-year; so that the full salary would be 5,500*l.* a-year, and the retiring one 2,500*l.* This arrangement could not, he thought, be reduced without compromising the double object of securing men for the office at an earlier period of life, and of that class of eminence which the duties of the bench required. The question of the retired allowances could not be regularly modified, on the bringing up of this report, but he would propose it on a re-committal of the particular resolution which embraced that branch of the subject.

Mr. *Scarlett* could not forbear noticing the proposed arrangement for retiring allowances. When it was considered how few did retire, economy could hardly enter into the consideration of the amount of the allowances. If a judge, then, were to receive 5,500*l.* a-year while on the bench, 2,800 a-year appeared to him too little, for a retiring allowance, and hardly enough to enable the individual to maintain that station in society which his previous office required. The effect of being too economical in the retired allowance, might be detrimental to the public service, by compelling a judge to remain longer in office than his health and faculties warranted. He remembered, indeed, an instance of this: the late Baron Wood, who was an excellent judge, a profound lawyer, and a person of great sagacity, at a very advanced age retired from the northern circuit: and instead of quitting the profession altogether, was offered the seat in the court of Exchequer, which he could not, under the circumstances, well refuse. The Baron's infirmities, however, grew upon him so fast, as to render it most unpleasant to himself, to the bar, and to the public, to have the administration of justice conducted by him. To remedy such inconvenience, the retiring allowance ought to be 3,500*l.* a-year. It ought to be remembered that a judge could not retire when he pleased—the Government had always the option of requiring his full services, as long as it was obvious that he was capable of performing them. An expedient might be devised for rendering those learned persons useful even after they had retired; he meant in the Privy Council (hear). The subjects in the British colonies, which, be it remembered, comprised the whole Indian empire, had only the Privy Council to appeal to, and the judgment there was final. Of what importance then was it that the Privy Council should be so composed as to be enabled to adjudicate with true legal precision! He had known in times gone by (for he spoke not of the present), the greatest ruin occasioned by precipitate decisions of the Council. How could it be expected that gentlemen not in the habit of administering justice, and unavoidably destitute of technical knowledge, should be able always to decide correctly upon the complicated questions that came before the Privy Council? This cause of complaint did not always arise: for while Sir William Grant attended the Privy Council, they were sure of the aid of a lawyer of the most perfect constitution, but the public had not always the benefit of his great know-

ledge and talents; for he remembered, that at the time when Sir William Grant for some reason declined attending the Privy Council, he (Mr. S.) had on one occasion to attend there; and he recollected that seven appeals were at that time decided contrary to the way in which all the lawyers present thought they should have been. Now, would it not be well to call upon retired judges to assist on these occasions, by making them members of the Council? The labour would be much less than that on the bench, and the duty such as a retired judge could generally discharge without oppressive fatigue. In this view he wished to be liberal in the retirement allowances.

When the report was brought up, on the resolution respecting the salaries of the Judges being put from the chair,

Mr. *Brougham* agreed without a single exception in all that had just fallen from his learned friend, whose great experience, varied opportunities, and profound knowledge upon such matters, justly entitled him to great weight in this discussion. It was, he could assure the house, the universal opinion at the bar, that the retiring salaries of the judges ought to bear a nearer proportion to their full emoluments; he therefore was one of those who thought the proposed scale was a bad one, and particularly respecting the arrangement for the chief justice, who was to give up so much valuable patronage for so inadequate a compensation as 300*l.* additional a-year. There was no comparison between the duties of the chief and puisne judges, and it was of the utmost importance that the former should, from the dignity of his station, be enabled to exercise that proper sway which the due discharge of business required, and which could not be practically effected, if the four sitting judges were to be nearly of co-ordinate influence. Where much business must be done, a great deal depended on the lead which should be taken by the chief judge. Whatever therefore diminished the emoluments of the chief justice, must *pro tanto* diminish that sway in kind and station with which for the good working of the business of the court he ought to be clothed. Besides, a chief justice had a quantity of business peculiar to himself, and beyond all comparison greater than that of the other judges. Lord Ellenborough had gone to Guildhall with a paper containing 368 causes, which he disposed of to the astonishment and admiration of the profession. The business was not now so great as it was then, but still it was five times greater than in the time of Lord Mansfield. The puisne judges had the whole adjournment from the 24th of November till the 23d of January. The chiefs, it was true, did not go the spring circuits; but then they had their *sad prius* sittings from nine o'clock every morning till four o'clock, and the constant taking down of evidence was much more laborious than merely hearing arguments at the bar. As a proof of the superior sway which attached to the chief justice in proceeding with business, he remembered that shortly before Lord Ellenborough retired, one or two of the puisne judges were in the habit of sitting for him by turns, at *sad prius*; but, vexed one morning at the accumulating arrear of business, his lordship, as if by a sudden illumination which was to shine out before his mental light became eclipsed for ever, resumed his place in court, and swept away in the course of that single sitting 17 causes, which stood in the way of

the regular and quick dispatch of business. It was this consideration of the value and the great additional labour of the chief justice, which induced him to say that 800*l.* a year additional was no remuneration for the proposed transfer of its patronage, containing, among others, two offices which sold for 20,000*l.* His next objection to the scale was regarding the office of Vice-Chancellor—now filled by Sir John Leach, who was really the ornament of the equity courts. The Lord Chancellor was of course a learned man—a very learned man—he must be deemed the most learned of the lawyers; but still the value of all these acquisitions must be measured by their public utility, and that almost entirely consisted in their application to the dispatch of business; it was there that the Vice-Chancellor shone conspicuous, and he at least of the Chancery judges, *absit invidia*, thought that the duty of a judge was to adjudicate: the Vice-Chancellor was no political partizan, he did nothing else but decide causes. He sat in his court, not like a political judge, from eleven till two o'clock, but from ten to four—ay, and he used to come down while suffering excruciating torments from indisposition, and when his physician said that he was fitter for his bed than for the bench—nevertheless, the Vice-Chancellor was in his court, and dispatching business. He was therefore to all intents and purposes a judge, if the person deserved that name who was really a judge (a laugh). He knew many who would rather run the risk of having their causes hastily decided before the Vice-Chancellor, than never have them decided at all elsewhere (hear, hear). And yet this was the judge whose salary in the scale was to bear no adequate proportion to that of others in the same line of rank. This able judge, who got through ten times more business than the Master of the Rolls, was to have only 6000*l.* a-year, just the salary of a puisne judge, although he ranked before the Lord Chief Baron, and immediately after the Chief Justice of the Common Pleas, whose salary was 8000*l.* a-year. The Master of the Rolls was to have a salary of 6000*l.* a-year with the addition of a house, when no place of residence whatever was to be granted to the Vice-Chancellor, who, in point of fact, did all the business of the Chancery Court (hear, hear). To what could such an arrangement be attributed? Surely not to any political prejudices (hear, hear). The Chief Baron, who had little or nothing to do, was to have 7000*l.* a-year, while the Vice-Chancellor, who did so much, was to have only 6000*l.*; and the Chief Justice of the Pleas, who had not one half of the business of the Vice-Chancellor to perform, was to have a salary of 8000*l.* a-year. He could assure the house, that all the barristers in Westminster-Hall were perfectly astonished when they heard of these arrangements. The salary of 8000*l.* a-year for the Chief Justice of the Common Pleas trod too closely upon that of the Chief of the Court of King's Bench, who was Chief Justice of all England. As to the salary of the puisne judges,—and he spoke it in a place from which his expressions would in a few hours be conveyed to the bench,—he thought the proposed scale too high, and that they would be well and truly paid with 5000*l.* a-year (hear). When he said this, the house must feel he gave a disinterested opinion; for it was not pleasant to speak in reduction of the incomes of those in whose presence he must

spend nearly the whole of his time, and where it was desirable for him professionally to hold a good understanding: still he must say, that 6000*l.* a-year was for them quite an extravagant remuneration, and he believed there were none more surprised at it than the judges themselves. He saw that the whole bar in Westminster-hall were in one ferment of astonishment at the proposition on the morning after it was made, and they naturally compared the emolument and the duties with those of other offices. There was the Speaker, the first commoner in England, who held an office of great responsibility and heavy labour, attended with great expense, admirably sustained at present, as all must know who partook of the dignified and splendid hospitality of the Speaker's mansion (hear); and yet his salary was only 6000*l.* a-year. What comparison was there between his necessary expenditure, and that of a puisne judge who had only the circuit expense to maintain? Then there was the Secretary of State for the Foreign Department, who had to maintain the national hospitality on a suitable scale, in the presence of foreigners of rank,—who had his household expenditure also swelled by the maintenance of messengers,—whose business consisted of no sinecure (hear); for he had to listen to the ambitious pretensions of the Holy Alliance, to fence off all their meditated attacks upon public liberty, in the best way he could; and no doubt it required all his great ingenuity to do so—to make excuses of all kinds for them, both in and out of the house—to correspond back and forwards with these good people—to tell them that to attempt in England to assist in some of their projects would be just as much as his head was worth (a laugh, and hear);—then to manage matters in debate in parliament; and yet all this for 6000*l.* a-year! The puisne judges were only plagued all day with the lawyers, but the foreign secretary was plagued with them all night (laughter)—not so satisfactorily, indeed, for either party, for the lawyers had often a chance of gaining a cause by day, but they had little or none when they grappled with the right hon. gent. by night. On the whole, he thought 5000*l.* a-year was quite enough for the puisne judges; he would propose, then, at once, to lop off 500*l.* from the resolution of 5500*l.* a-year, and he had no doubt in this reduction he should have the assistance of his learned friend near him.

Mr. Scarlett.—“No, indeed, you shall not” (loud laughter).

Mr. Brougham, well, then, he must do it himself (hear.) Let him not be told of the refusal of professional gentlemen to mount the bench for such a salary. It was easy for a lawyer to say, ‘I would not take it;’ which reminded him of an observation of a humorous friend, who had said that it was one thing to ask a man to take a dram when the bottle was on the table before him, and another to say, ‘Sir, will you allow me to send to the cellar for a glass to refresh you’ (a laugh). It was the most idle pretence to say that the members of the profession would commonly refuse the bench even at the present rate of remuneration. He knew of no such refusal. Judge Buller had been raised to the bench at an early age, before he had time to make a fortune at the bar. He would now consider a still more important part of the subject, not the salaries, but the independence of the judges. Blackstone, in his Commentaries, had stated, perhaps incautiously—

ly, that the late king had made the judges independent of the Crown; and the inference was, that he was deserving of the gratitude of the people. Now it was as well, in such a case, to speak the truth; and the facts of the case were, that it was William III. who made the judges independent of the Crown, and the late king did nothing but secure the judges from removal from office at the demise of the Crown. Lord Hardwicke had more accurately stated, that the great hero of the Revolution, King William, had auspiciously protected the liberties of the country by laying the foundation of the independence of the judges, and that his late Majesty had found out the only thing that remained to render them thoroughly independent—the securing of them from a removal from their offices on the demise of the Crown. Whatever had been the motive of this proceeding on the part of his late Majesty, whatever was its principle, or its tendency to promote the object for which it was avowedly designed, he had no hesitation in saying, that it was a perfect delusion upon the people, so long as the Crown pursued the practice of translating the judges from the lower to the higher seats upon the bench. Looking up for promotion on the bench, as in the church, naturally tended to make men look rather to their maker, than to the public good. He spoke of the office of common law judge, and not of the office of Chancellor, which, being partly judicial, and partly political, must of course more expose the possessor to influence; and he could not, as an honest man, say that he had not sometimes seen a certain effect on some judges from particular bias—he admitted it to be rare, and accountable for from peculiar circumstances—but generally the bench was admirably filled; still the Crown ought, for its own sake, to remove the sort of tendency to which he alluded, or the possibility of its existence. If they wished to preserve the purity of the judges in the public esteem, they ought to put them above suspicion. He foresaw the difficulty which would be opposed to his proposition, and the choice which would be left to him between the positive prohibition to translate a person of high merit in default of finding any candidate so competent, which might occur once in half a century, and the other danger which he dreaded of constant translation. Between those two evils he would elect the first. He would have less dread of the translation of a Master of the Rolls—he would have no predispositions as to questions of political libel—he would have no peculiar feelings acquired from judicial habits in administering the law of high treason—nor in any of the great questions which affected the interests of the Crown, the revenue, or the tithes. His wish was, however, to emancipate the judges altogether from any bias on their judgment, and from any suspicion of bias in the public mind. In the last reign he knew but one instance of the translation of a judge, namely, Chief Justice Eyre; and he did not recollect any other up to the time of the Regency. But of late years the practice had increased, so that in 15 years there had been no less than six acts of judicial translation. The first of these cases was that of Sir V. Gibbs, a man of very decided political character; and therefore, in ordinary calculation, liable in a considerable degree to the influence to which his observations referred, though, as he very willingly admitted, in practice a very pure,

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The *Attorney-General* thought it would be very unwise and inexpedient to adopt the resolution as it was moved by his learned friend. Neither the history of present or of past times proved it to be at all necessary. A resolution of the house in the last reign had been inserted as the preamble of an act for securing the independence of the judges and the due administration of justice; but that formed

no case to justify the resolution now proposed, which if good in principle, ought to be constituted into the rule by legislative provision. If it were wise to forbid the promotion of Puisne Judges, let that be prohibited by statute. But if the matter were to be left to individual discretion, the Crown must be left to exercise that discretion. Any particular abuse in the exercise of it might form a ground for legislative interference; but no instance of such abuse had been pointed out. It was said that these translations were more numerous than in former times. What did that amount to, if in every case a justification were found in the circumstances? At the time of the appointment of Chief Justice Dallas, the place was offered to the then Attorney-General, who refused it. Could it have been offered to a more fit and proper person? Could the situation have been better filled either for the Court or the public than by Chief Justice Dallas? His learned friend had quite forgotten the practice of past times. Lord Coke was moved from the Common Pleas to the Chief Justiceship. Sir Matthew Hale was a Puisne Judge before he was made Chief Justice. Lord Hardwicke was Chief Justice of the King's Bench, and then was made Lord Chancellor. Lord Camden was Chief Justice of the Common Pleas before he was Lord Chancellor. Yet the learned gentleman would lead the house to believe, that since 1810 a new principle had been adopted. Accident had multiplied the cases, but there was no new principle. Lord Kenyon was Chief Justice of Chester and Master of the Rolls before he was made Chief Justice of the King's Bench. What did all this prove, but that the line could only be drawn by discretion, and that that discretion must be left with the Crown? It was against the practice of the constitution and inexpedient, to embrace a proposition of this nature in a resolution, which, if good at all, ought to be carried into effect by an act.

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Mr. *Canning* conceding all that had been urged by the learned gent. opposite (Mr. *Scarlett*), felt bound to come to the conclusion, that the resolution proposed by the learned member (Mr. *Brougham*) ought not to be adopted. They would find that the adoption of that resolution would lead to a discussion on the propriety or impropriety of every judicial appointment which the Crown might make. If such appointments ought not to be vested in the Crown, let a specific act of parliament be introduced to that effect. But if the Crown was to exercise a discretion in the appointments, let that discretion be free and unfettered, subject however to the opinion of that house in the event of any abuse. Either course would be open and straight forward; but the proposed resolution would have the effect of attacking, by a side wind, every appointment of the Crown, while it made parliament share with the King, or his Majesty's ministers, the duty and responsibility of each appointment. He was most anxious that the judges should be free and independent, but he was also anxious that they should be so placed as to enjoy the confidence and favour of the people. He could illustrate his argument by what took place upon the Regency bill. It then became a question as to the latitude to be allowed to the Prince Regent in creating peers, and it was proposed by some that he should only have the power of extending the peerage to men of extraordinary military merit. Now there was scarcely a man in the house, who did not perceive at once the folly of such a restriction. It might be right or it might be wrong to give this power to the Prince Regent, but it was felt by all that the proposed measure would devolve upon the House of Commons the duty of discussing the propriety or impropriety of each elevation to the peerage; so it would be in the present case. Either let the Crown be restricted by law from appointing to the higher law preferments, or else let it have the exercise of free and unfettered discretion, subject, of course, to that inquiry on the part of the house which any violation of the rights and interests of the community would render necessary.

Lord *Althorpe* thought the resolution might be adopted with a view to a bill hereafter; of which it might form the preamble.

Mr. *Peel* was ready to admit, that if it were the intention to follow up the resolution by an enactment, the observation of the noble lord would apply. It had been objected that there was an inconsistency between the Chancellor of the Exchequer, who had said "If you enable me to make this liberal increase in the salaries of the judges, there is a probability that in the bill to be brought in, a clause will be introduced to regulate the future appointment of Chief Justices, and perhaps to abolish the practice of nominating them from among the Puisne Judges," and the learned gent. (the Attorney-General) who had opposed this resolution (hear). He denied the inconsistency. The common object of his rt. hon. and of his learned friend was, that instead of judges being appointed in future (as had been the case generally during the last 25 years) not until they were upwards of 50, or perhaps 60 years old, this liberal increase might induce able and meritorious men to come forward for these most important offices while they were yet in the

prime of life—as from 40 or 45 to 50 and upwards. He perfectly agreed with his rt. hon. friend in thinking that there was no middle course between leaving the prerogative of these appointments unfettered in the hands of the Crown, or this house's addressing the Crown, requesting it to withhold altogether the exercise of such prerogative; and undoubtedly the House of Commons had the power, if it should see fit to do so, to prepare and present an address of that nature. It was not a little singular, that while the learned gent. opposite had found so much fault with the learned gent. on his (Mr. *Peel*'s) side of the house, for having adduced in his speech no instances but particular ones; that learned member's (Mr. *Brougham*'s) own address was almost entirely confined to the single case of Mr. Baron Garrow, whom he described (and every one must admit with great justice) as a man of the highest talent and learning; and who ought, in the learned gent.'s opinion, to have been raised to the chief justiceship. But to cite instances of this sort was only to provoke discussion on the relative merits of existing judges. The learned gent. himself did not propose to take away absolutely, and under all possible circumstances, this power of appointment. "Let it only be exercised," said he "in cases of rare and distinguished merit." But, supposing this preamble once agreed to, and passed as part of the new law, would it not afterwards be quite impossible for the crown to promote a puisne judge, to the chief justiceship, however extraordinary might be his merits and qualifications, without very great disadvantage to that individual (hear)? Would it not be very unfair towards any puisne judge to select him for a promotion that must of necessity appear so invidious? There was much in the learned gent.'s (Mr. *Brougham*'s) general reasoning against which he was not prepared to contend. All that he desired was to show that in a case of this kind there was but one alternative for the house to pursue. If the crown should ever abuse the power it was invested with in respect to the appointment of judges, it would always be open to the house to proceed for remedy of such a grievance by address. To the resolution now submitted to the house, he must object, as unconstitutional. The House of Commons might proceed on the same principle, by address to the throne, in relation to the appointment of almost every individual holding office by its nomination. The discretion of the crown in these matters ought to be left unfettered, unless it were meant to take it away altogether; in which case a bill for the specific purpose must be brought into both houses of parliament. On these grounds he should oppose this resolution.

Mr. *Hume* contended, that if a resolution such as that now proposed had stood upon the journals, they would never have witnessed the appointment of Mr. Justice Best to be Chief Justice of the Common Pleas—an appointment which there was not one individual at the bar who did not deprecate. It was unpleasant to the country, and disgraceful to those who recommended it to the crown (hear).

Mr. Sergeant *Osborne* declared that the hon. member for Montrose, so far from speaking the sentiments of the bar of England relative to the appointment of Lord Chief Justice Best, was uttering those that were exactly the reverse of them. He could safely assert, that no judge

had ever been more calumniated, or had evinced higher character and ability, than Lord Chief Justice Best (hear, hear).

Mr. Denman asked, when it was said that if the crown should make an improper appointment, it would be open to the house to address the crown for its retraction, whether it would be possible, in the case of an untried judge (against whom there might exist every objection, but who had not yet proceeded to the exercise of his judicial functions), to do so? Ever since the period at which English judges were declared to be irremovable, except by reason of misconduct, no judge had been removed, in England, from his office. In Mr. Kenrick's case, he (Mr. Denman) did not find that the power of addressing the crown had been resorted to at all—he did not find that any such course had been adopted, nor that any of the servants of the crown had come down to that house to submit to it the propriety of urging that gent.'s removal (hear). The proposition now brought forward by his learned friend, seemed to him to have met the case which it was intended to meet. It would at least have the wholesome effect of giving the crown a hint of the opinions of the people on this subject. As to the promotion of Mr. Justice Abbott to be Lord Chief Justice of the Court of King's Bench, he (Mr. Denman) would only say, that had there at that time existed a resolution of the House of Commons to guide the discretion of the crown, he thought he could have anticipated another nomination. He would even venture to suggest the name, and that was going very far, of the party he was now speaking of; and whose appointment at that period would have given universal satisfaction to the country, to parliament, and to the bar (hear, hear). It was the absence of some such wholesome resolution that had led of late to these appointments of junior judges to be chiefs; a system which evidently must have this effect—that from time to time the influences of hope and fear must be operating on the minds of the puisne judges, to the disparagement of the purity and integrity of justice.

Mr. Wynn would have been induced to draw a very different inference from the circumstance of there being no instance in a period of 120 years, of the removal of an English judge: he should have concluded from such a fact, not that parliament had neglected its duty, but that the judges had faithfully discharged their's (hear). Mr. Kenrick, as yet at least, had only been prosecuted as a private individual. There were no indictments against him as a judge: how, then, could the crown have interfered with him in his judicial capacity? Since the year 1700 to the present time, there had been sixteen Chief Barons appointed, and only five of them without being previously puisne judge (hear). With regard to Sergeant Lens, he could state that some years ago the chief justiceship of Chester was offered to him, and he declined it. He did not know whether the chief justiceship of the King's Bench was actually offered to the learned sergeant by the administration of the day, but he was sure that at the time his health was in a condition that would have compelled him to refuse any such offer (hear). Upon the whole he thought, that if the resolution proposed by the learned member for Winchester had gone on to declare, that under no circumstances of superior talent, or merit, should any puisne judge be hereafter appointed a chief justice, it would have been more con-

sistent and reasonable than in its present form, under which, at all events, he felt compelled to vote against it.

Mr. Abercrombie said, the facts on which this resolution was founded were indisputable. Two chiefs, nearly at the same time, had been elevated to that rank from puisne judges. To him this appeared to be a course of appointment highly objectionable. There were many trifling circumstances which altogether might form a ground for the removal of a judge, and yet not afford sufficient cause for an address from that house. Mr. Kenrick's case appeared to be almost a matter of indifference with the rt. hon. President of the Board of Control. But Mr. Kenrick, whose conduct was now to be judged of, had himself to try criminals. And what must be their feelings at knowing that their judge himself was being tried, as he might say, before the court of King's Bench in the meanwhile. It was certainly a very fit subject to call forth the observations it had called forth from his (Mr. Abercrombie's) hon. and learned friends. He concluded by supporting the resolution.

The house then divided, when the numbers appeared — For the amendment 29—Against it, 112—Majority, 83

FRIDAY, MAY 27.—The Judges' Salaries' bill, having been recommitted, with an instruction to the committee to make provision for the retiring allowances of the Judges.

The Chancellor of the Exchequer proposed the first resolution—that the present salaries of the Judges should cease and determine, and certain others be provided to make up the stipulated amount already submitted to the committee.

Mr. Searlett could not allow the propriety of giving the Lord Chief Justice no more than 10,000*l.* a-year in lieu of all fees. He had a great objection, for reasons which he had formerly stated, to the abolition of some of the fees. He believed that the average emoluments of the office had been 15,000*l.* a-year, for many years past; the least which they ought to give should be 12,000*l.* a-year. He complained that the Puisne Judges were about to receive a considerable augmentation of emoluments, without giving a proportionate increase of salary to the Chief Justice. He begged the house to consider the effects of deteriorating the consequence of that situation in the eyes of the world, and of that profession which the Chief Justice represented. It was with the profession of the law as with the lottery. The aggregate of the property made by it would not cover the expenses laid out in preparing for it, taking in all those who aspired to it. It was by the situation of Chief Justice that people were induced to subscribe their money. If they made free with the ancient fees, perquisites, and emoluments of the Chief Justice, why were they not at liberty to do so with bishopricks? Men of considerable eminence would not be induced to give up a leading practice at the bar, for a salary barely equal, perhaps inferior, to the profits of their practice. The style of living must be taken into the account. The profession lived very much together, and were rigorous critics towards every one in the profession as to the rate and style and expense. A man of good practice might live in his own way, and make a very good figure with half his earnings. Not so the Chief Justice, who was looked up

to not only as head of the common law, but as one possessed of dignities and advantages becoming his high station. A man would accumulate less for his family as Chief Justice at 10,000*l.* a-year, than a barrister could with the same sum acquired by practice. He was free to do as he liked in the latter case; in the former he would be chained to hard labour for life; he would be condemned to tug at an iron oar, or, if it should be considered as too harsh a description, at a gilded one. He would advise Government if they wished to induce independent men of the best intellect and acquisitions to accept the situation, not to reduce its consequence or pecuniary advantages, but to do every thing in their power to uphold the dignity of it. With that view he would take it out of the patronage of the Lord Chancellor, whoever might happen to fill that office. It was the duty of Government to provide as many competitors of capability as they could; and the Chief Justice ought to be at liberty to offer himself. But for that reason the appointment of the Chief Justice should not lie with the Lord Chancellor. He could easily conceive a case, though of course it never yet happened, of a Lord Chancellor taking care not to promote any persons to the Bench, except such as were notoriously too inferior to himself to threaten him with danger of rivalry. To prevent that, Government ought to retain the appointment of the Chief Justice to themselves, taking care to bestow it on the best man of their own party. He thought it a great advantage to the dignity of that office, that the Chief Justice should, as often as it could be effected, be made a peer. It would encourage the sons of noblemen to enter that career, if that high reward were rendered a little more certain. A man worth 5,000*l.* a-year might be made a Secretary of State. He would then get 6,000*l.* a-year more. The barrister making 10,000*l.* must resign all that before he could take to the 10,000*l.* which it was now proposed to give him. He concluded by moving that 12,000*l.* be inserted in this resolution instead of 10,000*l.*—This amendment was afterwards thrown out without a division.

The Chancellor of the Exchequer could understand the learned gent. in his observations on the justice of abolishing any advantages enjoyed by the present holder of an office, because that would be a breach of the conditions upon which the office was accepted; but he did not so clearly apprehend the abstract rights of individuals to the emoluments of an office to which no one at present dreamt of appointing them.—Judicial offices like all others were fit subjects for the regulation of Parliament. The question then was, whether or not 10,000*l.* would be an adequate compensation to any barrister of eminence for quitting his practice to sit as Chief Justice; between the salary and the dignity of that situation, they were not likely to be at a loss for sufficient candidates. He denied that the present Chief Justice would be any loser, and he was the only party whose interest they were bound particularly to consider. His emoluments and salary together, had averaged 9,200*l.* Deduct expenses of rolls and other instruments for the use of his court, with the charge of the land-tax and civil list, and 700*l.* or 800*l.* a-year which it cost him for his state, and there did not remain 8,500*l.*, so that the resolution gave him an absolute increase of 1,500*l.* a-year.

Mr. Peel said it was as open to the legislature to dispose of the fees of the Chief Justices as

of the Secretaries of State. About twenty years ago, a Secretary of State was in receipt of 17,000*l.* or 18,000*l.* a-year, from fees of very ancient establishment, which had in progress of time, and the changes of things, reached this enormous amount. They were abolished, and a salary of 6,000*l.* a-year given instead of them. He thought that if the present Chief Justice would be no sufferer by the resolution, there was not the slightest ground for considering the interest of his successor in the fees to be abolished. The legislature had dealt with many other offices in the same manner, and their power to do so was not be called into question.

Mr. Hume asked if the fees were to be abolished after being taken away from the Chief Justice?

The Chancellor of the Exchequer said, that the resolution followed the recommendation of the commissioners appointed to inquire into the nature of the fees and offices. As to the regulation of the fees, he understood that his learned friend near him had a bill ready to bring in for that purpose.

Mr. Hume objected to confining the fees, because they operated as a tax upon those who had the misfortune of being engaged in a lawsuit. He wished to know whether the abominable fees of Chancery were to be diminished; which certainly must be strong inducements in themselves to the Judge to look with more complacency than he ought on the dilatory practices of that Court. Certainly the Lord Chancellor ought not to be the only officer whose fees were to be sacred from the control of Parliament.

The Chancellor of the Exchequer had explained before, that he could yet propose nothing with respect to the Court of Chancery, because the Commissioners had made no report. He deprecated the exaggerations respecting the fees and emoluments of the Lord Chancellor. It was true that he received 3,000*l.* or 4,000*l.* in fees as Speaker of the House of Lords; but that had nothing to do with the office and duties of Lord Chancellor. In that office he only received 5,000*l.* a-year salary, and about 7,000*l.* in fees. But the salary of the Vice-Chancellor was paid at his own suggestion out of the 5,000*l.* a-year; so that, in all, the Lord Chancellor did not receive more than 13,000*l.* a-year. Was the Lord Chancellor of England overpaid with a salary of 13,000*l.* a-year (hear)? As far as trouble and labour went—as far as consumption of time and devotion to duties were concerned, the Lord Chancellor yielded to no public officer whatever in the exercise of his functions (hear).

Mr. Hume would rather that the Lord Chancellor should be paid 15,000*l.* a-year, than receive a salary which was raised in the present objectionable manner. As to the amount of that learned lord's income, he begged to repeat, that he understood it to be 18,000*l.* per annum; but he did not yet know whether or not the fees on bankrupt commissions were included in this estimate. If not, he begged to say, that those fees formed a very important part indeed of the whole salary.

The Solicitor General denied that any important part of the Chancellor's salary, was derived from bankrupt fees or from the postponement of business.

Mr. Hume said, that when the returns that had been ordered should be produced, he would undertake to challenge the learned gent. to disprove his statement.

Mr. Horsey twice said, that the Lord Chancellor, so far from desiring to delay the progress of business under any circumstances, had lately himself remodelled the bankrupt office. The numerous holidays that used formerly to be observed there were now done away with, excepting only a very few days; and for the additional labour incurred to the clerks by this arrangement they received additional allowances. These allowances, he could assure the house, were paid by the Lord Chancellor himself out of his own salary, which did not exceed 15,000*l.* a-year.

Mr. J. P. Grant observed, that the exaction of fees in courts of justice could be defended on no other plea, in any case, than this—that they were originally intended, and might serve as an encouragement to the officer receiving them to the better discharge of his duty. They became an evil, when they ceased to operate in this way; and were felt only as a severe tax upon litigants in courts of justice.

Mr. Hobhouse really conceived that if the salaries of the judges were to be raised, and they were still to have the appointment to offices in their courts, and the fees until these offices fell in were to remain, the public alone would be the losers by the new arrangement; the judges alone the gainers (hear, hear).

The *Attorney-General* denied that the public would gain nothing by this arrangement. It was intended that hereafter every officer appointed should personally discharge the duties of his office. Now the chief clerk of the Court of King's Bench (Lord Ellenborough) did not discharge the office in his own person, but by the master. All the fees out of which the salary of Lord Ellenborough, as chief clerk (about 7,000*l.* per annum) was defrayed, went first into the Exchequer. The master was paid, out of other fees, such a salary as was thought adequate to the duties he performed. Now, whenever Lord Ellenborough vacated this office, that amount of 7,000*l.* would be saved to the public (hear, hear), and only the present, or any other income, continued to the actual officer who now represented him (hear). As to the question of the fees themselves, and as to whether they should be got rid of altogether, that might be made the subject of a separate discussion at some other opportunity.

THURSDAY, JUNE 2.—The house having resolved itself into a committee to consider further the resolution on the salaries of the Judges,

The *Chancellor of the Exchequer* moved a resolution for granting an additional 500*l.* a-year to the retired allowances of the puisne judges.

Mr. J. Williams enlarged upon the advantages of arranging the salaries and pensions of the judges so as to leave them no temptation to remain on the bench after the decay of their faculties and bodily strength had rendered them notoriously unfit for the duties of their station. The greater the difference between the salary and the pension, the stronger the inducement to weak-minded judges to cling to their stations, in spite of the dissatisfaction of the public. With these views, he proposed as an amendment an addition of 400*l.* a-year to the retired allowances beyond the 500*l.* now moved by the Chancellor of the Exchequer.

Mr. Denman spoke of making a handsome retreat for the retirement of judges, though he was not very favourable to the increase of their

salaries, having been unable to discover any case in which a man of known abilities had been offered the salary of a judge and had declined it.

Mr. Peel said, that the duties of the acting judges had in the course of these discussions been greatly under-rated. It was not in those duties which came in the routine of the courts that their labours were all comprised. After their return from the assize, they had to sit at the Old Bailey. Besides the business of the term, they were burdened with a considerable quantity of business, the amount of which was only known properly in his office. Upon all questions of capital punishment brought up from the counties, there were numerous references from his office to the judges upon the facts which had appeared on the trial. Some of these involved points of law which they had to discuss privately among themselves. Then they were of necessity consulted, as legal advisers of the Crown, upon private bills. In short, their duties were numerous and weighty enough to take up their whole time.

Mr. Denman said that the representation of the *rt. hon. Sec.* did not altogether satisfy him. He thought it one of the least advisable things to leave that power of after-consultation among the judges assembled in a private room, without the presence of counsel, to determine on points of law affecting questions of life and death. It was a common thing for counsel, prepared to argue a point for their client, to hear from the presiding judge that they need not undertake the argument because such and such a thing had been resolved two or three years ago by the judges in a private room, upon the point reserved on a preceding trial, of which judgment the public knew nothing whatever. There was an equal disadvantage in making them advisers upon private acts of Parliament, upon the construction of which they might as judges have afterwards to decide.

The *Attorney-General* was induced, upon mature reflection, to entreat his *rt. hon. friend* to adopt the amendment of his learned friend. It was of the utmost importance to take away all inducement to judges to adhere to the bench when their incapacity or feebleness had made their retreat a matter of notorious necessity. There had been instances where the difference between the salary and pension had been a consideration of such a nature as to prevent a judge labouring under the greatest weakness from retiring.

Mr. Peel said that the amendment seemed to meet the general feeling of the house, and no duty could be more gratifying than to give ground on a point of this nature. He cheerfully acquiesced in the amendment.

The *Chancellor of the Exchequer* expressed his alacrity in giving up his own proposition to adopt that of the learned gent. He proposed that the scales of retired allowances for the Chief Justice of the Common Pleas, the Chief Baron, and the Master of the Rolls, and the Vice-Chancellor, should be 3,750*l.* by way of preserving their consequence in a medium between the puisne judges and the Lord Chancellor and Lord Chief Justice.—The resolutions for granting 8,500*l.* to the Puisne Judges, and 3,750*l.* to the Chief Justice of the Common Pleas, the Chief Baron, Master of the Rolls, and Vice-Chancellor, as retired allowances, were then agreed to.

Mr. Hume begged to observe, that in the case

of the Master of the Rolls, 800*l.* had been added to the yearly retired allowance. But, on the other hand, no part of the full salary had been deducted, as in the case of the puisne judges. That was left to the Master of the Rolls, at 7,000*l.* a-year; but as he conceived the same principle ought to be adopted in the one instance as in the other, he thought the full salary of that judge should be but 6,500*l.* per annum.

FRIDAY, JUNE 17.—On the motion of the *Chancellor of the Exchequer*, the Chief Justice of the King's Bench bill, and the Common Pleas bills, were read a third time.

On the question for the third reading of the Judges' salaries' bill,

Mr. *Brougham* rose to repeat that his opinion remained unchanged upon the impropriety of this bill, which he conscientiously believed to be unjust and uncalled for. Let the house look at what had been the progressive increase of the salaries of the puisne judges. A few years ago their salary was but 3000*l.* a-year, and 25 or rather 33 per cent. was then added to make up for the increased price of the articles of life. The prices lowered, but no reduction of the salary was the consequence. Then followed the restoration of the currency, which must again have made a difference in their favour amounting to 25 per cent. more, independent of the reduction of taxes. The consequence of these several additions since the year 1809, was, that the judges' salaries would now be virtually 7,000*l.* a year, as compared with the 3000*l.* with which they were satisfied 15 years ago. If granting these large and unnecessary allowances to the judges, was evincing a faithful stewardship of the public purse, then he did not know what the meaning of an unfaithful steward was (hear). He was astonished at such a lavish expenditure of the public money, when the Secretaries of State had less, although necessarily incumbered with a large expenditure, from which the former were exempt. He wished to see the dignity of the judicial station upheld; he was anxious to see the honour and the comforts of the judges maintained, but he disliked to see it done at this expense, and still more he disliked their being placed in the track of promotion, or translation like the Bishops, because he was convinced that in the law, as in the church, such prospects were detrimental to the public service.

Mr. *J. Williams* regretted that his Majesty's ministers had persevered in carrying this measure through the house. It would seem indeed from the disinclination of ministers to give a pledge that they would restrict the appointment of judges to lawyers of certain ages, that they were indifferent to the manner in which the duties of the bench were discharged. He knew the difficulty of making any general regulation for the particular age at which a judge ought to retire, for some men were as competent to transact business at 70 years of age as others were at 60. The age, however, at which judges were appointed to the bench during the last 60 years, and more particularly during what might be called the dynasty of the present Lord Chancellor, was painfully remarkable. It did not appear to be a matter of chance, but of system, that the appointments should mostly take place at advanced periods of life. With respect to the pecuniary question, as long as

the old system of appointment was continued, the more money was paid, the longer would the office be held by the individual, without reference to the state of his faculties.

Mr. *Peel* said that nothing could be more difficult than to agree upon any particular age which ought to determine the appointment or retirement of a judge. It would be absurd to say a judge ought not to be appointed until he became 60 years of age, and equally absurd to make that age the specific time for his retirement (hear). He entirely concurred in the general tendency of the learned gent.'s remarks—that considering the bodily labour which a judge must undergo, men of sufficient legal knowledge and experience at the age of 40 or 45, were the fittest to fill the judicial offices (hear). He denied that the course had been to select lawyers at 60 years of age to fill the office of judge. The Government, he could assure the learned gent., entertained no desire to pursue such a course, but exactly the contrary; and if he had not already given a pledge to that effect, he begged now to be expressly understood as giving it (hear, hear).

Mr. *Hobhouse* asked why the judges should be paid more than the Secretaries of State? He thought that the dignity of a judge was not dependent upon the amount of his salary. Nor could he see the propriety of stimulating the judges to remove their places of residence from the spot in which they were now generally accustomed to have them, and rear the younger branches of their families at the west end of the town. He complained that several useless offices were still maintained about the courts. Among these were the office of clerk of the papers, and the filacer's office. The judges had still means of indemnifying themselves for inadequate salaries, by appointments which remained, and which they would naturally confer upon their families. A number of fees likewise remained that ought to be abolished, and the alien office was also perfectly useless; so opposed was he to the proposed augmentation, that he meant to move, as an amendment, that the salaries of the judges be reduced from 5,000*l.* to 5,000*l.* Another point had been entirely omitted—he meant the principle of making the judges immoveable. They could never expect an impartial administration of justice while the puisne judges looked up to the situation of chief. So determined was he to assert the principle that judges ought to be immoveable, that he would make a motion for its introduction by a declaratory paragraph in the preamble of the bill.

The bill was then read a third time.

Mr. *Hobhouse*, on the question for its passing, moved that the sum be 5,000*l.* instead of 5,500*l.* which was considered by almost every leading man in the profession as too large a salary.

Mr. *Brougham* seconded the motion. He had never known the office refused at 5,000*l.* a-year salary; nay, he had never known it refused at 4,000*l.*

Lord *J. Russell* said, that as the office with the former salary had never been declined within the recollection of his learned friend, there was no occasion to raise it on the supposition of wanting able men to fill it, which was a fear purely theoretical.

The house divided—

For passing the bill, 74; for the amendment, 45; majority, 29.

**LORDS, THURSDAY, JUNE 23.**—The Earl of *Liverpool* called their lordships' attention to the bills on the table relative to the Judges' salaries and reform in Courts of Justice. He would first move the second reading of the bill for the abolition of the sale of offices in the Court of King's Bench and Common Pleas, but in what he had to say he should advert to all the bills. The object of the bill relative to offices was the prevention of their sale; but the principle on which it was introduced was the doing away with all sinecures whatever. Hitherto part of the remuneration of the judges had been made up by profit derived from offices in their gift; but it was proper that they should have specific salaries, and not depend upon any resources of this kind. The bills before their lordships were introduced to effect this purpose. He had no hesitation in saying that all offices in courts of law, which were sinecures, ought to be abolished, and that those which were efficient ought to have suitable salaries; and in this way only they should be paid. The noble earl then stated the salaries to be given, according to the bill, to each of the judges, and concluded by moving the second reading of the sale of offices' abolition bill.

The Marquis of *Lansdown* did not mean to oppose the bill, in the principle of which he entirely concurred. These bills gave a sanction to the principle that the mode of paying the Judges, by allowing the sale of offices, was improper, and that the mode of paying them by a fixed salary was to be preferred. He was not so well acquainted with the details of the measures; some of them were said to require alteration. To promote the respectability of the Judges, their salaries should be such as to encourage able lawyers to accept the situation; but their lordships should be careful in their liberality not to be too liberal. The places of the Judges might be overpaid, and whenever an office was over paid, it became an object of political influence. Hitherto the office of Judge had been kept free from such an influence, though it had been stated by *Monsieur Cottu*, in his work on the jurisprudence of this country, that the Government was always inexorable in requiring that the judges of all the courts should be of its own political opinions. It was therefore right that on this point their lordships should be cautious; and after they had augmented the salaries of the Judges, it would become them to see that this temptation was not improperly used. Another point which he thought should be guarded against, was, the introduction of new fees. He understood that many of the fees now exacted, had been exacted for the performance of duties which the Legislature never intended should be paid for in this manner; and he hoped that care would be taken, after the present fees were abolished, to prevent in future any similar fees from being levied. He called the attention of their lordships to the administration of justice in Wales. The principles of the present measure were, that the Judges should be so well paid as to maintain the first rank in society, that they should be made independent of all political influence, and that there should be few of them. Every one of these principles were the topics of praise to every foreigner, and to all the natives of this country who examined our system. But every one of these principles were violated in the case of the Welsh Judges. There

were a great number of them in proportion to their duties, they had low salaries, and they continually received political appointments. He did not know why, when a general system of assimilation was pursued in every branch of the Administration, in the collection of the Customs and Excise, and in all the regulations for trade, that the same principle should not be extended to the judicature in Wales, nor did he know why this gross anomaly should not be removed, and the system adopted in that Principality assimilated to the administration of justice in the other parts of the island. It could not be said, that it was advisable that justice in the remote provinces should be different from justice in the capital. If this were the case, a supreme Court might be established at once in London, and the Judges spared the trouble of going their Circuits. He had, however, always understood, that the great advantage of the present system was, its establishing a connexion between the remote Courts and the higher tribunals of the country, making the administration of justice alike in all. He would not advert to the conduct of persons belonging to the Welsh Judicature, though it might illustrate some of the evils of this system, because that conduct was likely to be investigated before another tribunal, and their lordships might be called on to give their opinion on it. The bill which had been passed last session, for regulating the Welsh Judicature, had been completely inefficient. He knew that more than one-half of the business at Caermarthen at the last Assizes had been left undone for want of efficient means for executing it. He stated this as an additional reason why their lordships should take the state of the Judicature in Wales into their consideration, and regulate it on the same principles as were laid down in the bills then before their lordships.

Lord *Ellenborough* thought that the bill would be nugatory. If its object were to prevent the sale of offices, that could not be prevented so as to produce any public advantage. If merely the regulation of the offices was intended, that, he thought, would not be accomplished by this bill. His noble friend near him supposed that fees had multiplied, but he could assure him that was not the case. In his office, the most lucrative in the Court of King's Bench, the fees were rather smaller than formerly. There had been no alteration since the earliest record, which was 1605. Sales of office by the Chief Justice never, in fact, took place; but the higher offices were always given to relatives. If offices were to be abolished, that object might be accomplished in the manner which had been adopted with respect to the Court of Exchequer in Ireland—namely, that of buying out the interest of the parties. According to the old system the salary of the Chief Justice was double that of a puisne judge; but now, when all profits were taken away from the Chief Justice, his rule was not observed. From the proposed mode of paying the judges, it would be found that they would soon be insufficient; at present, part of their emoluments depended on fees, and the fees were in proportion to the business performed; if the judges were paid by a salary it would soon be necessary to increase their numbers. There was a great public convenience in the practice which gave seats in that house to high law

officers. Did their lordships think that 10,000*l.* a-year, without any addition of private fortune, would be sufficient for a judge who was to be made a member of that house? There was a great inequality in the retired allowance given to the Chief Justice and Puisne Judges. The Puisne Judge had a salary of 5,500*l.* a-year while performing the duties of his office, and a retired pension of 3,500*l.* The Chief Justice had a salary of 10,000*l.* a-year, and his pension was only 4,000*l.* He thought that this glaring disproportion should be corrected. The noble lord concluded by repeating his opinion, that the public would obtain no advantage by those measures, and that he thought the objects in view might have been accomplished by better means.

The *Earl of Liverpool* admitted that the bill for the abolition of the sale of offices could not take effect for a considerable time with respect to offices already sold; but as to the prevention of the future sale of offices, its operation was immediate. With regard to offices already sold, there were only two ways of accomplishing their abolition, either by buying them out at once, or suffering them to expire. Both methods were equally just; but he was sure that in this case great difficulty would be experienced in trying the first; for those who were interested in such offices would not be easily satisfied, and the Government would be liable to the imputation of giving too much to some, and too little to others. The best course, therefore, appeared to be that of allowing offices to expire. Nothing could be more improper than that judges should be rewarded by a means so liable to imputation, as that of the sale of offices. The noble lord had objected to the salary of a Chief Justice not being double that of a puisne judge; but the question to be considered was what would be a fair remuneration for a person placed at the head of the Court of King's Bench. With respect to the alleged disproportion of the retiring allowance, that was founded upon the consideration that the puisne judge could not be able to make any great saving out of his salary, and that he therefore ought to have a considerable allowance on retiring. There was more chance of the Chief Justice accumulating a fortune, not only considering his salary, but the probability of his having made considerable savings before his appointment to the bench.

The *Lord Chancellor* wished the sale of offices in courts of justice to be done away with. He had always thought the practice very improper. His reason for so saying was, not that any Chief Justice, either of the King's Bench or Common Pleas, had ever made an improper use of the patronage they possessed, but because public opinion never could be satisfied that they might not. The administration of justice should be placed far above suspicion, and the possibility of that suspicion was a great objection to the sale of offices. But he had another reason for wishing the practice to be done away with, which was, that persons who bought offices, naturally thought themselves very ill-used if any reforms were made which affected their interests. He did not suppose that any Chief Justice had ever refrained from making such reform as he thought necessary, notwithstanding the opposition of interested parties; but it was necessary that those who administered justice should stand clear in public opinion. With respect to the offices called sinecures,

their lordships would concur with him in the propriety of their abolition, as well as in the proposition for paying efficient officers by fixed salaries. As to the increase of the salaries, their lordships would recollect that the Chief Justices had received no augmentation of salary for a long series of years. If patronage were given to them in place of salary, the continuance of that system was the fault of Parliament, not of the Chief Justices. With respect to the low salaries of the puisne judges, he could only say that all the judges he had ever known had always done their duty in such a way that it could not have been better performed had their salaries been ten times greater. This arose from that great security for the good conduct of the judges in this country, the publicity of their proceedings. It had been asked why the Chief Justice and the puisne judges should not be placed on the same footing with regard to the retiring allowance; but his noble friend had given a very satisfactory reason for that disproportion, and he wished their lordships to consider that it was a very delicate thing for lawyers of talent to take the situation of puisne judge under the circumstances in which they had for some time past been called upon to accept such appointments. The situation which he had held at the head of one of the courts of law, and which he had desired more than any other, and retired from with regret, was not to him a profitable situation. His practice at the bar produced three times more than he received from it. With respect to the office which he now held, many erroneous notions prevailed. No effort of his had yet been able to convince the public of the real fact, with regard to the office of Chancellor of Great Britain, which was, that its emoluments did not produce one farthing more than they did a century ago, but in truth a great deal less. Much had been said of the patronage of the Court of Chancery—of offices given to relations and friends; but if it did not turn out upon investigation that he had been more sparing of patronage than any of his predecessors ever had been, then let him stand convicted before their lordships. With regard to what had been observed on the state of judicature in Wales, he should only say, that ill as the Welsh judges were paid, for one appeal or writ of error that came from them, there were a hundred from the English Courts.

The bill for the abolition of the sale of offices and the other bills connected with it were then read a second time.

MONDAY, JUNE 27.—Upon a motion by *Lord Liverpool* for the third reading of the *Judges' Salaries' bill*,

The *Lord Chancellor* complained in the strongest terms of the misrepresentations and calumnies which had gone forth respecting the emoluments of his office, although the amounts of its profits had been already given in accounts before the House of Commons, and the means were apparent for the correction of such mistakes. Perhaps it was thought that this mode of calumnious misrepresentation was the way to get him out of office: they were mistaken who thought so; he would not yield to such aspersions, nor shrink from asserting what he owed to himself. Had he been treated with common justice, he should not, perhaps, have remained *Lord Chancellor* this day, but he repeated he would not be driven from his office by calumnies.



own attack. Let him only be treated with common justice, and in five minutes his office should be at any body's disposal. From the accounts which had been furnished to him of his emoluments as Lord Chancellor, by those who best knew the amount, apart from his income as Speaker of the House of Lords, he was happy to say, that the Lord Chief Justice of the Court of King's Bench had received a larger income from his office. He quoted from the average accounts of the last three years; and he would further say, that in no one year, since he had been made Lord Chancellor, had he received the same amount of profit which he enjoyed while at the bar. Strange, then, it was, that he should be attacked as he had been by misstatements and misrepresentations of every kind. If he remained at the bar, and kept the situation he held there, he solemnly declared he should not be one shilling a poorer man than he was at this moment. His noble friend (Earl Grosvenor) should not have blamed him for not bringing this subject before the house earlier. It had often been brought forward, and it was thought that the emoluments arising from the sale of offices should not be interfered with, because, had they been abolished, the Chief Justices of the supreme courts must have received a compensation in some other way. It was therefore concluded that parliament made a good bargain for the public in allowing them to remain. When the salary of the puisne judges had been augmented from time to time, no augmentation had taken place in that of the chiefs, because they were considered as deriving part of their emoluments from this source. It could not for a moment be supposed that having entered on the laborious duties of their office under the conviction that its emoluments were to be secured to them by law, they could be turned adrift without any regard to their rights. The parliament had said by the act abolishing sinecures and regulating offices, that no sinecures should exist after the present vested interest should expire; but the present possessors had just as good a title by law to their emoluments, as their lordships had to their estates. The noble earl entirely misunderstood the question with regard to sinecure offices. Bills had repeatedly been sent up from the other house for abolishing them, and they had been resisted, because the persons who brought them here did not understand the question. It was assumed that because the deputy did all the drudgery of the office, therefore the principal was of no use. The doctrine was founded on a mistake: the presence of the principal might not always be required—his superintendence might not be given from day to day—but it was given on proper occasions—and were not his responsibility always interposed, the consequences might be extremely injurious to the suitors and the public. He would pledge himself to be as active as any noble lord in correcting abuses, but he would perform his duty with a due regard to the rights of others. The reason, why, in the present bill, there appeared no clause regulating the offices in the Court of Chancery was, that a commission was now sitting on the state of that court. Much misrepresentation had gone abroad concerning his conduct since he presided over that court; but whatever he might suffer from such calumny and misstatement, he enjoyed the consolation that he had been incorrupt in his office, and he could form no better wish for his country than

that his successor should be penetrated with an equal desire to execute his duties with fidelity. The feelings and fate of an individual were in themselves of small importance to the public, and he might be sacrificed to the insults which he daily received; but he begged noble lords to reflect that he might not be the only sacrifice. If the object were, as it appeared to be, to destroy the reputation and throw discredit on the motives and conduct of men in high official situations—if every man who occupied an eminent station in the church or the state were to become the object of slander and calumny—then their lordships might lay their account with similar treatment, and might rest convinced that their privileges as peers could not long be respected when such characters had been sacrificed (hear, hear).

The bill was then read a third time and passed.

### *Police Magistrates' Salaries.*

COMMONS, MONDAY, MARCH 21.—On the motion of Mr. Peel, the house resolved itself into a committee of the whole house, to take into consideration the subject of the salaries of the police magistrates of the metropolis.

Mr. Peel requested the attention of the committee to the pecuniary allowance which the police magistrates of the metropolis received for their services. It was his intention to propose that those individuals should receive an addition, which he trusted would not be considered at all unreasonable. He could prove, to the satisfaction of the committee, that since the institution of police magistrates, the business which devolved upon those individuals had, owing to various acts of parliament which had been passed, independently of the increase of population, greatly augmented. Although that circumstance would of itself be a sufficient reason for increasing the salary of the magistrates, he rested his proposition upon grounds which he hoped the committee would consider even more satisfactory. When the police magistrates were first appointed, it was the practice to select individuals to fill the office, who were utterly incompetent to discharge the duties which devolved upon them. Out of twelve police magistrates appointed at a former period, there were only three barristers; the rest were composed of a major in the army, a starch maker, three clergymen, a Glasgow trader, and other persons, who, from their previous occupations, could not but be considered as utterly unqualified to perform the duties of magistrates (hear, hear). The law had fixed no qualification with respect to the persons appointed to the office of magistrate; but he thought the committee would be pleased to hear that neither his predecessor in office (Lord Sidmouth) nor himself had ever appointed a person to fill the office of magistrate who had not been a barrister of three years' standing. That was a rule to which, in his opinion, it was most desirable to adhere (hear). But in order to enable the Secretary of State to abide by that rule, and to carry it into practice, it was necessary to augment the present salary of police magistrates. He implored the house to consider whether 600*l.* a-year (the present salary) was sufficient to induce a barrister to give up the emoluments of private practice and the hope of preferment in his profession; to undertake the duties of a magistrate, which

required almost constant attendance. It could not, he thought, be considered an unreasonable proposition, that in future the Secretary of State should be empowered to give to each police magistrate the sum of 800*l.* per annum (hear). He hoped that he should not be told that individuals might be found, who would be willing to undertake the magisterial duties for a less sum. It was very true that such was the case. He was constantly receiving applications from persons who were anxious to be appointed police magistrates. Those applications proceeded principally from country magistrates who had discharged the duties of their offices ably and satisfactorily; but whom, nevertheless, he did not think it right to appoint to be police magistrates in the metropolis. He held the unpaid magistracy in as high respect as any man, but he could easily conceive that a gentleman might, in consequence of the influence which he derived from local circumstance—the relations of landlord and tenant, for instance—be able to discharge the duties of a country magistrate in a satisfactory manner, who would be incompetent to undertake the very important functions of a police magistrate. "Police magistrates" was the name generally given to the magistrates to whom he alluded, but those persons were mistaken who supposed that the duties which they had to perform were merely executive. They were called upon to administer the law in a great number of complicated cases. Several nice cases had occurred under the building acts. He knew one of that description which had occupied the attention of the magistrates for a couple of days, during which surveyors were examined on both sides. It appeared to him that the individuals appointed to administer justice in this country were more parsimoniously dealt with than in almost any other country in the world (hear, hear). He thought this was poor economy to give an inadequate remuneration to individuals selected to administer justice, whether in the highest office of judge, or in the less important but still very important office of police magistrate (hear). He might, he did not doubt, get persons—those who could not succeed in their profession, the refuse of the bar—to fill the office of police magistrate, at a lower salary than he proposed to give; he could save 100*l.* or 200*l.* a-year by such a proceeding, but the public would have cause to lament it. The present police magistrates were of the highest personal respectability, and performed their duties to the great satisfaction of the country. They were thirty in number, only four of whom were not barristers. The *rt. hon. gent.* concluded with moving "that it is the opinion of the committee that each justice appointed, or to be appointed, under the act for the more effectual administration of the office of justice of the peace in the metropolis, should receive a yearly salary not exceeding 800*l.*"

Mr. *Hobhouse* was of opinion that the plan laid down by the *rt. hon. gent.*, of selecting magistrates from the bar, would add to the patronage of the Crown, and tend to destroy the boasted independence of the bar, which, indeed, was hardly necessary, for he understood that there were at present 400 places which might be given to barristers, whose number amounted in the metropolis to 820. He did not clearly understand from the statement of the *rt. hon. gent.* whether the increased salary was to be given to all the police magistrates of the

metropolis, or only to such as the Secretary of State might think fit to favour. In the former case, he would agree to the resolution; in the latter he would oppose it, for he could not help thinking that the partialities of a Secretary of State might be improperly exercised, when he recollected how, on a melancholy occasion, at a not very distant period, a person at the head of the police of the metropolis (Sir R. Baker) was dismissed by the *rt. hon. gent.*'s predecessor.

Mr. *Peel* said the increase would be extended to every police magistrate. With respect to what the *hon. member* had said respecting the patronage of the Crown—if that were any object, it could be much better attained by giving the appointments to gentlemen from the country, rather than from the bar (hear).

Mr. *Hume* did not think that 800*l.* per annum was too much for a magistrate to receive, but he was of opinion, that the present number of magistrates might be reduced. He understood that each magistrate attended to his duties only for a very limited time during the day.

Mr. *Peel* said that the question of the propriety of reducing the number of magistrates had been considered in a committee which was appointed at his suggestion two sessions since, to inquire into the state of the police of the metropolis. In 1792, London was divided into nine districts, to each of which three magistrates were appointed. Notwithstanding the great increase of population, and the consequent augmentation of business, no addition had been made to that number except by the appointment of magistrates to the Thames police, a most useful institution. A great part of the business transacted in the police offices was done in the presence of two magistrates. He thought that a good arrangement, as one magistrate acted as a check on the other. This being the case, it was necessary to have a third magistrate attached to each office, to provide for the relaxation of the other two. The periods of relaxation were very short. The office was open from ten in the morning till eight in the evening. Two magistrates attended in the morning, and one in the evening. The jurisdiction of the magistrates of Union-hall extended over a district containing not less than 243,000 inhabitants. In one month, July 1823, not less than 176 cases of assault came before the magistrates of that office; and in July 1824, the number of assault cases was 150. This was independent of all other cases. It was evident, under these circumstances, that the number of magistrates could not be reduced without great inconvenience to the public, and prejudice to the administration of justice. That, at least, was the opinion which the committee, to which he had alluded, came to on the subject (hear).

The resolution was agreed to; the house resumed, and the report was brought up and received.

### *Licensing System.*

WEDNESDAY, MAY 4.—Lord *Nugent* presented a petition signed by the churchwardens, overseers, and inhabitants of Leighton-Buzzard, praying that the laws relating to the licensing of public-houses might be taken into consideration, for the purpose of amending them. The petition arose out of the circumstance of a poor publican at Leighton-Buzzard having been refused a renewal of his licence, without any

cause being assigned for that refusal. The consequence was, that he had suffered considerably.

Mr. Monck said, that this subject called for the serious consideration of the house. Some alteration certainly should be made in the existing law, under which the magistrates exercised the most arbitrary power. Two public-houses adjoining the town where he resided (Reading), had been shut up some time since, without any reason being assigned, except that public-houses were pernicious, inasmuch that poor men were induced to spend money there, which otherwise would be spent at home. Those who earned the money were the best judges of the manner in which it should be spent.

The petition was laid on the table.

TUESDAY, MAY 31.—*Sir F. Burdett* presented a petition from a person in Chichester, complaining of partial conduct in certain licensing magistrates of that town, who had refused him a license for a public-house, though no imputation could be made against his character, and though his application had been supported by 400 respectable inhabitants of the parish in which he resided. The complaint of the petitioner referred to a practice which had now arisen to a serious evil, and called for a remedy.

Mr. Poyntz said, that the three magistrates of whose conduct complaint was made were most honourable men, and if they did refuse the license to petitioner, he was certain that their motive was far from being corrupt. At the same time he could not but express his surprise, that an application such as the petitioner made should have been refused.

Mr. Hume pressed on the attention of ministers the necessity of some alteration in the law respecting the power of magistrates to refuse or grant licences at their discretion. The case before the house was one of great grievance, but was only one of many hundreds of the kind which occurred year after year. In Chichester, where this petitioner resided, there were 37 public-houses. Of these, 34 belonged to the brewers (Messrs. Humphreys and Co.), and there were only three free public-houses in the town. In the parish in which the petitioner lived, there was only one public-house, and yet he was refused, though the magistrates granted nine licences in the next parish. This was unfair to the individual as well as to the inhabitants of the parish, because the houses licensed in the next parish were, for the most part, those of Messrs. Humphreys and Co., and the occupants of them were obliged to give a bond that they would sell no other beer but such as Messrs. Humphreys brewed.

Mr. Maberly thought the law which regulated the licensing of public-houses required serious consideration. In some cases the magistrates had not the power to grant licences, except on a particular day; and if by any accident a man, who might have been licensed for years before, were prevented from attending to renew it on that day, he was obliged to wait till the next licensing day, which might be a year distant. He knew a case in which such a circumstance had occurred. A man to whom the magistrates had no objection, and who had been licensed before, was prevented by sickness from attending on the licensing day, and the consequence was, that though he came on the next day, his licence was refused, the magistrates

not having the power to grant it. Surely this required some remedy.

Mr. Huskisson said, that there were 37 public-houses in Chichester, which was not a very large place. The question, then, was, whether these were enough. In his opinion they were quite sufficient for the town.

The petition was ordered to be printed.

### *Mr. Kenrick.*

LORDS, THURSDAY, APRIL 14.—The Earl of Essex said it was his wish to have grounded some motion upon the proceedings which had taken place in the Court of King's Bench, respecting Mr. Kenrick the magistrate, whose case was one of public notoriety; but there were technical objections in the way, which prevented him from adopting that course. He wished, therefore, to know of the learned lord (the Lord Chancellor), whether he had received any communication on the subject of Mr. Kenrick from the Court of King's Bench. It must remain with the learned lord to act in the way he might think proper; but the conduct of a magistrate who had acted as Mr. Kenrick was said to have done, could not, in his opinion, be passed over unnoticed.

The Earl of Liverpool observed, that Mr. Kenrick stood precisely in the same situation as any other judge, and could not be removed from his office except on an address from his Majesty, in which both houses of parliament must concur.

The Lord Chancellor assured the noble earl he was without any official communication. He had only the same information respecting the business as the rest of their lordships might have had. Here, however, he must observe, that as caution should be used in recommending persons to be magistrates, so it was also necessary that those who had the power of removing them should take care that the representations on which that authority was to be exercised were well-founded. Representations had been made to him, of a magistrate having applied to his own use fines which he had levied on individuals. On reading the affidavits which were laid before him in support of this charge, he did not choose, on their authority, to strike the magistrate out of the commission, and the result proved the propriety of this hesitation; for it turned out afterwards, that the magistrate indicted and convicted of perjury the persons who had sworn these affidavits. On the present case, he had only seen in the newspapers the report of what passed in the Court of King's Bench when a criminal information for libel was applied for on the part of Mr. Kenrick. But the decision of the court had no reference to the question agitated by the noble earl; for it appeared that the judges refused the information solely on the ground that Mr. Kenrick had chosen to defend himself in a public paper, the *Stamford News*; and had thus taken the law into his own hands, instead of applying, as he ought to have done, in the first instance to them.

COMMONS, TUESDAY, JUNE 14.—*Mr. Denman* rose to call the attention of the house to the conduct of a magistrate of the county of Surrey. The complaint which he had to lay before the house related to two particular transactions; and if substantiated, they would form a ground for the house to address the Crown,

praying that Mr. Kenrick might be divested of any judicial situation which he then held. The first part of the charge he was about to make, was contained in a petition (which he then presented) from Martin Canfor; the second, in a great variety of affidavits, which were produced in Hilary Term last in the Court of King's Bench. From these two sources he drew the inference that Mr. Kenrick had acted with partiality, violence, and intemperance on behalf of a party for whom he chose to interest himself, and had wrongfully imprisoned an individual who pursued him by action, and recovered a verdict against him. If that which he had admitted himself in his own affidavits should alone be taken against him, it would prove him utterly unfit to hold his present office. He would refrain from going into particulars at this time, and confine himself to a motion for bringing up the petition in order to printing it, and for producing and printing copies of the affidavits before mentioned. The whole of the case would thus be put into the hands of members, who might increase their information upon the facts by inquiries; after which the house might be called upon to declare in some form what steps it might deem necessary to be taken.

Mr. Denton said, that Mr. Kenrick, in a conversation which he had had but a few hours ago with him, had expressed his most earnest desire that the house might, by going into an examination, give him an opportunity of disproving the accusations. But it certainly was the wish of Mr. Kenrick that the affidavits should not be printed before the matter came to trial, and was investigated according to the course of the courts of law. The case ought not to go partially before the public.

Mr. Peel said, that he had no intention to obstruct the investigation, but he thought that enough notice had not been given on the point of producing the affidavits, which part of the motion was now mentioned for the first time. A question might arise, would the affidavits show the whole of the case? If not, should not some means be allowed to Mr. Kenrick to complete the explanation? He thought, at any rate, that the affidavits ought not to be printed.

Mr. Denman urged, that the printing of the affidavits would not put Mr. Kenrick in a worse situation than that in which he stood already, for the substance of them had appeared already in all the newspapers, and they had been discussed in the King's Bench.

The Attorney-General, in order to temper the opinion into which the house might be led, took this opportunity of saying, that the question in the Court of King's Bench had never been heard on the merits. One counsel only was heard for Mr. Kenrick, but it appearing that he had written a statement of his case in a newspaper, the Court would not grant a criminal information to a party who had taken up his own cause in a public newspaper. All that he had to request for Mr. Kenrick was, that the house would reserve its judgment for the investigation.

Mr. Scarlett thought that the affidavits ought not to be printed; they embraced a number of transactions, some of which were connected with the case, others not, and Mr. Kenrick had had no opportunity of replying.

Mr. Wynn observed upon the hardship of proceeding against a gentleman upon the matter of sworn affidavits, when it might be urged against any thing which could be advanced for

him in the unsworn examinations before the house, that equal credit could not be given to it because it was not upon oath.

Mr. Canning agreed that this was a sufficient objection to printing the affidavits, and thought that the learned gent. should put the charge in some shape in which it would be fairly and equally met. Again, the affidavits, if produced, might contain a great deal of totally irrelevant matter, so that the individual might not know which of them, or which parts of them, it would be necessary for him to answer, and which not. But if the learned gent. would put the charge in some such form as seemed to have been appointed in the case of Baron Page, the case would then be considered as soon as possible by the house.

The petition was then read. It was from Martin Canfor, of Stoke Newington (a butcher), praying that the house would institute an inquiry into the truth of the statements contained in his petition, and adopt such measures in relation thereto as it might think fit. The statement was in effect, that Mr. Kenrick had refused a search-warrant against one William Beale, who was accused of having stolen petitioner's sheep; William Beale being the brother of Mr. Kenrick's bailiff. That Mr. K. had, instead, sent a note requesting Beale to deliver up the fleece; that upon petitioner's discovering the fleece in Beale's house, and appearing with it again before Mr. K., Mr. K. demanded of him his note to Beale which the petitioner had in his possession; and on his refusing to surrender it, Mr. K. ordered a constable to seize him and take it by force. That instead of committing Beale, Mr. K. had driven petitioner to submit to an arbitration touching the question of property.

On the question, "that it do lie upon the table,"

Mr. Denman thought, that had he introduced this question in the absence of any affidavits to support it, it would have been objected to him, "that there was nothing in the case, that it was picked up upon mere hearsay, and not upon oath." But it now seemed, that the objection urged in this case was, that the charge was too solemn; and that the disclaimer on the other side could not be equally so (hear). In the case of the Chief Baron of Ireland, which was brought forward by the hon. member for Limerick, no difficulty of this kind was started. In that case commissioners were appointed to inquire into the business; there was no substantive charge; but the house proceeded upon a certain number of facts on which those commissioners had reported. How was the objection in this case to be met? As far as he could be supposed to know any thing of the facts imputed as against this individual, he (Mr. D.) charged him with gross misconduct. The affidavits did not contain the charge that was now meant to be preferred. They would only show the mode in which Mr. Kenrick managed to get rid of that question by bringing his charge of libel against the *Morning Chronicle*. He now proposed, therefore, to have laid upon the table the affidavits made by Mr. Kenrick himself, and by him brought forward in support of his application for a criminal information against the editor of the *Morning Chronicle*, together with a copy of that letter of which he had been proved to be the author, addressed to the *Stamford News*.

Mr. Baring thought that the objections taken

to the motion of his learned friend were such as might almost induce people to suppose, though he was perfectly sure such was not, in fact, the case, that ministers had some desire to serve the individual complained of, from the effect of the inquiries proper to be instituted by that house (hear). Great responsibility attached to some quarter for not having already brought a case of this importance before the house. The first intimation which he had received of this individual's conduct was from perusing in the newspapers the speech of the Attorney-General; and when it was considered that that learned person had made such charges in a public court of justice, it was quite evident that they must be presumed to be known to the whole kingdom. Supposing such a speech had been made by the Attorney-General in respect of one of the judges of the courts at Westminster, would it be possible that that personage could be allowed to remain one of the judges of the land (hear)—or, at least, that he should continue in that eminent station without the matter of such a speech being made the subject of inquiry before that house? And because Mr. Kenrick was only a judge of Wales, it could never be contended that it was not equally essential that such a course should be adopted towards him. It was equally impossible to believe that the King's Attorney-General could have made such a speech as he had delivered on this subject in a court of justice, if he had not the strongest moral conviction on his mind that the charges which he had brought against Mr. Kenrick in the course of it—

The Attorney-General observed, that that speech was delivered by him in his capacity of an advocate only.

Mr. Baring still thought that the learned gent. would not have made such a speech without feeling that there were strong grounds for it, and, consequently, for a solemn investigation into the matter. The *rt. hon. gent. opposite* had told the house that they must suspend their judgments on this case; but, unfortunately, Mr. Kenrick could not suspend his judgments. He was about to go his circuit; and surely, because Wales was a little and a distant place, it would never be allowed that he should do so till parliament had examined these charges. Was a matter of such importance to be postponed to next session, merely because it was brought in at so late a period of the session? He (Mr. B.) was willing to rest the case on the testimony Mr. Kenrick had given for himself; in that case there could be no want of equality on the ground of evidence.

Mr. Denman, after observing that he certainly thought it would have been the most rational course to have all the affidavits printed, moved—“that there be laid before the house the affidavits filed by Mr. Kenrick, in support of his application for a rule against William Clement; also the affidavit of Mr. James, which was filed in order to prove that Mr. Kenrick was the author of the letter published in the *Stamford News*.”—Ordered.

TUESDAY, JUNE 21.—Mr. Denman gave notice of the course of proceeding he proposed to pursue with regard to Mr. Kenrick, and named the witnesses who would be called in support of his charges: he moved for their attendance on Friday next, and also for the printing of Mr. Kenrick's letter to the *Stamford News*.

Mr. Peel submitted, that the learned gent. was at present rather precipitate. Ought not his first object to be to ascertain whether the House of Commons were prepared to go into the inquiry; for the summoning of witnesses would otherwise commit them to a course which possibly they might not desire. They ought to be cautious how they committed themselves in such a precedent, and more particularly in a case in which the grounds of complaint were not as yet even printed; for the letter which formed one of them was not presented to the house until last night, and of course could not be supposed to be yet in the hands of members. At any rate, the motion for going into the inquiry and calling evidence, ought to be postponed until the papers were in the hands of the members. If the learned gent. would embody his charges on paper, it would give the individual accused the ability of more satisfactorily replying.

Mr. Abercrombie said, that there were two propositions in the case, which no man who heard them would dispute. First, that the house ought not prematurely to go into the inquiry; secondly, that they ought not to proceed in it without furnishing the accused with means for knowing the nature of the charge to be preferred against him. But both of those objects were already attained. The first was effected by the petition of Canfor which had been presented, and which contained the whole matter of the charge. As to the second, a friend of Mr. Kenrick's had stated that it was Mr. Kenrick's most anxious desire that there should be full and prompt inquiry. So that here was a charge deliberately brought, and the accused courted inquiry. The only question left for the house was, how soon they ought to go into it. How could it be assumed that Mr. Kenrick was ignorant of the charges? The objections, therefore, to the course marked out by his learned friend would not apply. He had only spoken in anticipation of what the house might deem necessary. It must be understood that he waited for the result of what he had submitted. Of all cases he had ever known, this was the clearest, and Mr. Kenrick himself prompted the house to inquiry.

Mr. Peel did not speak in reference to Mr. Kenrick, but to the forms of the house, and the principles of justice. The house had not determined on inquiry, and at least they should have the documents before them.

Mr. Wynn said, that it was the duty of the house to take care that the accused should have ample knowledge of the charge, which ought to be reduced to writing and handed to him. In the case of Baron Page, the complaint against him was ordered by the house to be reduced to writing by his accuser (Sir John Cooke), and a copy was ordered to be furnished to him. The house could then decide if there were *prima facie* a sufficient ground of charge to merit further inquiry.

Mr. Tierney said, if he understood rightly, there was no charge or imputation against Mr. Kenrick as judge, but only as magistrate. If the charge affected him as a judge, then undoubtedly it must be reduced to writing; but the petition, which contained the charge, only affected him as a justice of the peace. His learned friend did not make any charge; he only presented the petition. It was an odd way of going to work to fix the responsibility upon a member of instituting by a settled form of his

own, a charge contained in a petition; when they ought rather to choose to hear the petitioner themselves, that in case of his not making his charge good, he might be made immediately answerable. What his learned friend proposed was, that the petitioner should be heard. In the event of proving his charge, it would become the duty of the house to address the crown for removing Mr. Kenrick from the commission of the peace. It would afterwards become a question how far it could be proper to retain a man in the office of a judge, who was found unfit for the magistracy; and his removal from that high station would require more solemn forms from the parliament than could be necessary in this proceeding.

Mr. Brougham was surprised at the doctrine laid down, that a complaint was not to be entertained, unless the house cramped itself by an impeachment or a written charge. He had never heard that maintained in the house before. There had been already two instances of this same kind of proceeding in this session, and yet no demand had been made of a charge reduced to writing. The first was against the Duke of Manchester; the second was the petition of Burnett against Lord Charles Somerset. Inquiry was in this case necessary: he might have to impeach. The house was not called on to exert its judicial, but its inquisitorial functions.

Mr. Peel thought, that the learned gentleman ought to give notice for Friday, instead of fixing his motion for that day, because, in the meantime, Mr. Kenrick might be able to lay such a statement before the house as would make inquiry unnecessary.

Mr. Denman consented to alter his motion, but not with any expectation that the charge of the petition could be settled by anything which Mr. Kenrick might be able to advance between this and Friday next. It would, indeed, be little consistent with those high principles of justice for which the *rt. hon.* Secretary expressed his anxious regard, if the accused party, upon his own allegations, were allowed to prevent an inquiry called for by the sense of the house. He concluded by moving "that the petition of Canfor be taken into consideration on Friday next; that a copy of the petition, and of this order, be served on Mr. Kenrick forthwith; that Martin Money Canfor be directed to attend this house on Friday next; and that Mr. Kenrick have leave to attend the house himself or by counsel;" which were severally ordered.

FRIDAY, JUNE 24.—Mr. Denman moved the order of the day for considering the petition against Mr. Kenrick, and calling in as a witness Mr. Martin Money Canfor.

The *Speaker* here rose on the point of form, and observed, that he was ignorant of the course about to be taken upon this business. If it were intended to call an individual to their bar, and interrogate him while the *Speaker* was in the chair, the course would be to commence by putting such interrogatory through him; but if it were intended to open a general examination of the petitioner, and then to have a cross-examination to follow by all the members, then, perhaps, the more convenient course would be to proceed in a committee of the whole house.

The house having resolved itself into a com-

mittee (Mr. Gordon in the chair), Martin Money Canfor and Mr. Kenrick, or his counsel, were ordered to be called in.

Mr. Gurney and Mr. Bolland appeared for Mr. Kenrick. The petitioner took his station at the bar, and was examined by Mr. Denman.

He is a farmer, and was living last summer near Charlwood-common, Surrey. About the month of May in last year he lost about twenty sheep. One of them was a ram.

(Upon an objection of the *Attorney-General*, the witness was directed to answer without looking at his notes.)

He found some of the sheep upon Westwood-common, which is about 5 or 6 miles from Charlwood. They were all marked with a particular composition. He afterwards found the ram in a fold with some sheep belonging to one W. Beale, who lived near Betchworth. The ram was shorn; when he lost it the fleece was on. He saw Beale, and asked him where he got the ram. Beale said he bought it some time before. He asked Beale to produce the fleece; but he would not. Witness applied to a neighbouring magistrate, Mr. Kenrick, of Betchworth. He was shewn into Mr. Kenrick's room, and told Mr. Kenrick that he came for a search warrant to secure the fleece of a ram which he had lost. That he had seen the ram in the possession of Beale, and could swear to it, but Mr. Kenrick refused to receive the oath; Mr. Kenrick began to write. Adams left the room, and came in again with a paper, which was the form of a search-warrant. Mr. Kenrick said, "The note I am writing to Beale will do as well." Witness told him that he came there for a search-warrant, and he was afraid that Beale would not pay attention to the paper, having already refused to deliver up the fleece. Mr. Kenrick flew into a great passion, and ordered him out of the room. Witness did not go, but said he must consult with his attorney. Mr. Kenrick said, "Don't talk to me about your attorney." Finding that the magistrate was offended with what he had said; he begged him to go on in his own way. Mr. Kenrick gave the paper to Adams, and asked what was the Christian name? "Ours is James," Adams said, "and the one charged is William." Adams asked if it was to be served by a constable? Mr. Kenrick said to witness, "That is not necessary—take it yourself to Beale." Witness took the note to Beale's mother. He did not find Beale at home; but he made sure of the ram, and placed it in the grounds of Mr. Nash, who held the next farm to Beale's. He stepped into the public-house: presently in came Beale. Witness said he had a note from Mr. Kenrick; asked for the fleece; Beale would not give it. Witness said that he would go to another magistrate. On Tuesday witness went to Mr. Burgess, a justice, residing three miles from Mr. Kenrick. Mr. Burgess would give him no warrant, though he was going on very well, till witness told him of the note from Mr. Kenrick. Mr. Burgess said that he was sorry witness did not come to him at first, and he would have granted the warrant. Mr. Burgess refused to go on, and advised witness to go back to Mr. Kenrick. He went next morning; first, he saw Beale talking with James Beale, bailiff to Mr. Kenrick: He asked Beale again for the fleece; Beale said "I'll see it out with you." Both the Beales laughed. Witness saw Adams, and told him that Beale was come, and that he wished to see Mr.

Kenrick. Adams said that Mr. Kenrick had left the whole matter for Mr. Nash and Mr. Cutler to settle. Beale produced the fleece for Mr. Nash and Mr. Ede to look at it. They decided that the fleece in the possession of Beale belonged to the witness, who went to Mr. Kenrick with the fleece. Mr. Kenrick said, "What's the matter now?" Witness told him what had happened. Mr. Kenrick asked for the note he had written, and witness having refused to surrender it, Mr. K. told Adams to shut the door, which was done. "Now, Adams," said Mr. Kenrick, "I appoint you a special constable; search him for that note I gave him." Witness would not be searched. Mr. Kenrick said "Adams, send for the constable of the parish." Witness was kept an hour. John Batchelor, the parish constable, came. Mr. Kenrick said, "Constable, there's your prisoner—do your duty—search for a note which he has upon him." Witness would not resist the real constable of the parish, and suffered Batchelor to search him. The note was taken from him. Mr. Kenrick said, "Take the fleece from him." The constable took the fleece. Witness brought an action directly. It stood for trial at the last Croydon assizes. There was a compromise; Mr. Kenrick was to pay 5*l.* damages, and all the expenses that witness had been at, including loss of time and all other losses. He was a week from home before he got information about the sheep.

The witness was then cross-examined at great length by Mr. Kenrick's counsel, and various members of the house; but nothing was elicited from him to alter his first statement. He admitted that the taxed costs paid by Mr. Kenrick, 190*l.*, did not cover his loss and expenses, and that this was the reason he had proceeded to the present petition. Witness identified the note and read it:—"These are to request that you will deliver to the bearer, the fleece of a sheep admitted to have been taken by you from Westwood, in order that it may be produced as evidence before me, or a charge of felony, or bring it with you to my house, and show you cause why you should not do so."

"To William Beale." "W. KENRICK."

He said that Westwood Common was about four miles from Beale's, and he had been induced to suspect Beale, because he had been told by one Higgins, that he, Higgins, had seen Beale leading the ram off the common in a string. But he, Canfor, did not tell this to Mr. Kenrick.

The witness was then desired to withdraw.

Mr. Denman stated that he did not intend to call any more witnesses on this subject, but said he would state what he proposed as his ultimate course. When the petition and all the evidence on the part of Mr. Canfor, should have been gone through, he would leave it to the house to allow evidence on the other side to be given; and then the other case might be proceeded with; but whether it would be convenient for Mr. Kenrick to be put on his defence before that other case came on, it would be for the house to determine.

Mr. Kenrick's counsel upon being asked what course they intended to take, said they wished to give in Mr. Kenrick's petition in answer to the witness's statement.

The *Chairman* suggested that the learned counsel might read the petition as part of his speech.

The counsel (Mr. Gurney), then proceeded to read the paper; which stated that the fleece was detained with the view of giving it up to the party entitled after the question should have been legally tried.

Mr. Gurney then said, he should have thought he might very safely leave the case of his client, Mr. Kenrick, upon his own statement, which they had just heard, were it not for one part of that case in which he (Mr. Gurney) happened to have been personally concerned. Mr. Kenrick had intrusted his defence to Canfor's action to his learned friend Mr. Bolland and himself. Upon the trial of that action being called on, he (Mr. G.) understood from Mr. Canfor, that his object was only to secure costs. Now, he did think that his client, Mr. Kenrick, had no available defence to make in that case, and that a verdict must pass against him, which of course would carry costs. He therefore suggested to the learned counsel on the other side, that if such were Mr. Canfor's object, he had no objection to give him the verdict; upon which the plaintiff's counsel made a most explicit arrangement for plaintiff's taking a verdict with costs in the terms which had just been stated. Those costs were afterwards to be taxed by the officer of the court. It would therefore be for the house to determine whether Mr. Canfor, because he had been disappointed in the amount of these costs, and not because of any denial of justice that he had experienced at the hands of Mr. Kenrick, had not resorted to this petition as a measure of revenge and malice?—whether it had not been in the hope of obtaining further costs from Mr. Kenrick that he had continued proceedings of this kind, after the compromise and termination of his action? A perfect stranger, it appeared, came and asked for a search-warrant against a person of known good character in the neighbourhood of the magistrate. It was a moot point, whether the ram was stolen or strayed; and the upshot of the charge ultimately was, that the ram had actually strayed. No evidence was adduced that the beast had been stolen. The only complaint was, that the other party, Beale, had refused to give up the animal; and as it appeared to the understanding of the magistrate that this was a case of disputed property, he had deemed it improper to grant a search-warrant. With respect to the violence said to have been manifested by Mr. Kenrick, he would only say, that from the manner in which the witness answered the interrogatories at the bar of the house—from the intemperance which he displayed, some defence might be imagined for the conduct pursued by Mr. Kenrick. He could hardly suppose it would be presumed, under all the circumstances of this painful case, that the magistrate in whose behalf he appeared had been guilty of corruption. Under the circumstances which had been stated, it appeared to him that the magistrate had exercised a sound discretion. What, he asked, would be the situation of the subject, if a magistrate, in every case where application was made to him, violated the sanctity of a private residence? It would diminish the respectability of the magistracy if they complied with these applications, unless where strong suspicion existed. If magistrates, acting from the best motives, were to be thus inculcated, no gentleman of station, no gentleman of learning, would accept of the office. No magistrate, under similar circumstances, would have consented to grant

a search-warrant? He saw no reason whatever for calling a magistrate to that bar to answer the complaint now urged. If a magistrate acted wrong, the law was open to the aggrieved party. In such a case, the lowest, the poorest individual might resort to a court of justice for redress. He could, for instance, move the Court of King's Bench for a *mandamus* to compel the magistrate to perform his duty. This individual had done no such thing. For the injury which he alleged he had received, he brought an action in the Court of King's Bench, and he had received a compensation (hear). Notwithstanding this, he now came to the House of Commons, and said he suffered in consequence of a denial of justice; and he accused Mr. Kenrick as having been guilty of tyrannical conduct. What denial of justice had been sustained? What more could the complainant have obtained by the search warrant than was effected by the summons, or notice, which was placed in his hands? He procured his fleece—he procured that which he applied for; and what more would he have? Viewing all the circumstances of this case, he felt confident that no case had been made out, which called for the notice of that honourable house.

In answer to a question from the Chairman, Mr. Gurney having stated he should call no witnesses; and Mr. Bolland, also of counsel for Mr. Kenrick, having declined to add any thing to what had been said by Mr. Gurney,

An *Hon. Member* bore testimony to the excellent character of Mr. Kenrick, and vouched for the honour and respectability of that individual. He was, in all the relations of life, a most amiable and honourable man. A search-warrant ought not to be granted except in cases of grave suspicion, but he knew Beale, and had always considered him an honest man.

Mr. Canning apprehended it was quite impossible to proceed with the case, in its present state. They had on one side, evidence given at their bar, which would be printed; on the other side, they had the speech of a learned counsel, which was evanescent, and of which they had no record. They could not proceed without some motion.

Mr. Denman said, he would move that the evidence be printed.

Mr. Canning thought it would be unfair to assent to a motion of this kind, the evidence being all on one side. He was ready to go to a decisive verdict on the case, as it now stood; and, if no other person would make a specific motion on the subject, he would.

Mr. Denman said, the course he intended to pursue was a plain and clear one. Charges had been brought against an individual at the bar, and a witness had been heard. Individuals had been mentioned who, if it were necessary, might have been examined on the other side. As those persons had not been called, how could they dispose of the business except by printing the evidence, and adjourning? A most ingenious and eloquent speech had been delivered by the counsel for Mr. Kenrick—a speech which he was convinced would not be so evanescent as the right hon. gent. seemed to suppose. There were many novelties connected with this case, and amongst them, perhaps, the greatest was the proposition which had been laid down by the rt. hon. gent. when he asked, why should the evidence be circulated without

the speech of the learned counsel (hear)? He should like the rt. hon. gent. to point out any precedent where a speech delivered by counsel, or by any other person in that house, or at the bar of that house, was so sent forth along with the evidence. Was there much danger, he would ask, from sending out the evidence in the way proposed, when it was quite clear that other speeches opposed to that evidence would be delivered in the course of the discussion on the subject? The question here was, whether a poor individual, who endeavoured to recover his property, and who, in making that effort, was imprisoned, should receive the protection of that house? He (Mr. D.) was taken by surprise, when he found that persons who might have been called on the other side had not been brought forward. If the rt. hon. gent. could give him an example from authority, or could adduce something like reasoning to justify the refusal to print the evidence, then he would be content to deviate from the course which he originally intended to pursue; but if the contrary were the rule, as he believed it was, he should move "that the chairman do now leave the chair, that he report progress, and that the evidence be printed."

Mr. Peel said the speech of the learned gent. was entirely beside the real question. He began with a charge against Mr. Kenrick, and those who really wished to investigate the matter called on him to bring forward some written specific accusation. The learned gent. declined that course, declaring that the petition of Canfor contained the charge. The question therefore was, whether the evidence given by Canfor produced such a feeling in the house as rendered it necessary to proceed further. It appeared to him that no persons were so fit to judge of the merits of this case as those who had just heard the evidence given at their bar. Having attended to all that had been stated by Canfor, he was ready to move, "that the house having heard the testimony adduced by Mr. Canfor in support of his petition, do not think it necessary to institute any further proceedings" (hear, hear). He would now say, in defence of the individual accused, that there was nothing (at least, in the evidence brought forward) which could authorize the house to proceed any further.

A long discussion ensued upon the question whether the committee should come to an immediate decision on the case, or time should be given to consider it after the evidence was printed.

In the course of this discussion,

Mr. Peel said, it was quite clear that Mr. Kenrick had not acted from any corrupt motive. That was the most important part of the case. The second accusation was, that Mr. Kenrick had ordered his servant to search the petitioner. This undoubtedly was improper; but could he (Mr. Peel) dismiss from his recollection that an action had been brought against Mr. Kenrick, that he had been visited by a verdict, and put to an expense of 2000l.? He thought that gentlemen ought to be satisfied with the adjudication of a court of justice with respect to one part of the case, when, with reference to the other, they acquitted him of all corrupt and improper motives.

Mr. Baring, Mr. W. Wynn, Mr. Canning, and Mr. Goulburn expressed their opinion that though Mr. Kenrick's conduct had in some



respects been indiscreet, no case had been made out to warrant an address to the Crown for his removal.

It was ultimately agreed, that the house should take time to consider the case, and that the evidence should be printed.

The house then resumed; the chairman of the committee reported progress, and obtained leave to sit again on Monday.

**MONDAY, JUNE 27.**—*Mr. Denman* postponed the further consideration of the committee on *Mr. Kenrick* till to-morrow. He also brought up a paper relative to the case of *C. Franks*; and inasmuch as it contained the grounds of a charge against *Mr. Kenrick*—namely, that he had unjustly committed *Franks* for a felony—had afterwards proposed to compromise the affair on the condition that *Franks* should plead guilty of such felony, which *Franks* had declined to do, and had subsequently published a false and libellous letter against *Franks*—he gave notice that he would to-morrow submit a motion for considering such paper, and for calling witnesses in support of it.

*Mr. Peel* said, if it should appear that *Mr. Kenrick* could not enter upon his defence without also calling witnesses, other matters must necessarily stand over till next session.

The *Speaker* intimated that it had been usual to grant a copy of such a charge to the party accused, and upon the question being put from the chair, it was agreed that such copy should be communicated to *Mr. Kenrick*.

**TUESDAY, JUNE 28.**—*Mr. Tremayne* presented a petition from *Mr. Kenrick*, in reference to a paper which had, upon the preceding evening, been laid upon the table by the learned member (*Mr. Denman*), in reference to the case of *Mr. Franks*. The petitioner stated that he was taken by surprise by the order which the house had thereupon made for examining witnesses in relation to that charge; and that therefore he was not prepared. Now he (*Mr. Tremayne*) apprehended that this gentleman was not correct as to the order which he supposed to have been made by the house; for though the learned gent. stated that the witnesses were at hand and ready to be examined, he believed no order was actually made.

The petition was then read.

*Mr. Denman* would have no objection to allow *Mr. Kenrick* more time to instruct his counsel. He would therefore propose that the witnesses should attend on Thursday. It had been intimated to him (*Mr. D.*), that in respect of the case of *Franks*, however, *Mr. Kenrick* would not be able for some time to prepare instructions, and that that matter must stand over till next session. In this, as in all other parts of the case, he felt himself entirely at the disposal of the house. The papers were printed, and in the hands of hon. members; therefore the contents must be, by this time, tolerably known to *Mr. Kenrick* himself, and must have been so from the moment, almost, they were first printed.

*Mr. Peel* admitted that the accusation in this case involved two charges of the gravest kind; but at the same time they were such as might be tried by the ordinary tribunals, and seeing that no proceedings appeared to have been taken in respect of them in those tribunals, he thought it very doubtful whether the house should hear witnesses to either charge. It was

not till one o'clock that afternoon, that *Mr. Kenrick* knew any thing of this second charge being brought forward. He had only had the interval, therefore, between one and four o'clock for instructing counsel, and no opportunity at all for getting witnesses, if he proposed to call any. If this inquiry were now begun, they must go on and through with it; for he could not consent to that proposition of the learned gent. to take the charge against *Mr. Kenrick* first, and the answer next session. Was it after that charge should have been circulated in every direction, especially in that part of the country where *Mr. Kenrick* resided—was it possible that the house could postpone the answer to six months afterwards (hear)? He hoped he had satisfied the house, and even the learned gent. himself, of the impossibility of now going into this inquiry (hear).

*Mr. Denman*, observing from the general impression of the house, that it was not the desire of hon. gents. to proceed at present with *Franks*'s case, felt it to be his duty not to press it further now; but he would bring it forward next session, unless in the meantime circumstances should occur very materially to change his view of the case. He would now move that the committee on *Canfor*'s petition should resume its sitting.

The house having resolved itself into the committee,

*Mr. Denman* said, the committee for which he moved some time ago in order to examine into the case of *Mr. Canfor* having now resumed, he presented himself to their notice, for the purpose of submitting certain resolutions, founded on the evidence which had been adduced in support of that case. The charge was brought forward by him in conjunction with another charge; and in his view of the case, the two charges together formed matter of much more grave accusation against *Mr. Kenrick* than either of them, singly, would have done. He now merely alluded to the case of *Franks*—postponed as he considered it to be, to the next session—in order that he might not be met by the assertion that he had brought forward an isolated case against *Mr. Kenrick*. That case charged *Mr. Kenrick* with having in the execution of his duty conducted himself in a manner that had exposed himself to great animadversion. He (*Mr. D.*) was aware that in his view of this matter he differed from a great number of his hon. friends; but he certainly stood in a peculiar situation with regard to his auditory on this occasion; for he could not help considering the House of Commons as a special jury of magistrates, in a case of this kind (hear). A large proportion of the house consisted of gentlemen who filled similar situations to *Mr. Kenrick*'s in the magistracy; and who, he had no doubt, discharged the duties attached to those situations with honour to themselves and advantage to the country. It was impossible, however, that they should not feel something like sympathy for *Mr. Kenrick*. They might, indeed, from the same cause, be the better enabled to judge of the motives which had influenced the conduct of that gentleman; and far was it from his (*Mr. D.*'s) desire to deprive any one in *Mr. Kenrick*'s situation of the consolation of such a sympathy. With *Mr. Canfor*, who had appeared at their bar, he had had no previous communication. But he thought that the case might very well be left on his testimony. He was aware, indeed, that many hon.

gents, considered that witness's evidence to have been flippant and unsatisfactory. This he could not admit. And however improper might be the motives imputed to a witness, however different his manner from that which could be desired, those considerations would have no effect upon the weight and credit of his testimony, unless there were other grounds to suspect him either of fraud or falsehood in the delivery of his evidence. But when this witness came forward he was evidently in a weak and nervous state. He came there, endeavouring to screw his courage to a higher pitch than he had ever before found to be necessary; and perceived himself to be in a situation that he had never previously experienced, surrounded as he was by so many gentlemen of the highest rank in the country. As to flippancy of manner, he (Mr. D.) had never known even a simple country witness, after being subjected to a severe cross-examination, who did not leave the witness-box a much more impertinent person than when he first came into it (a laugh). In answer to the statements of Canfor, Mr. Kenrick had himself presented a petition. Now such facts as had been stated on the one side, and were admitted on the other, must be assumed to be true; and on such, gentlemen, might safely proceed to form a deliberate judgment. There were many such admitted facts in this case, which he would presently notice. (Here the learned gent. proceeded to recapitulate the testimony of Canfor.) Both the objects for which Canfor waited on Mr. Kenrick were defeated, one of those objects being to recover his property, and the other to prosecute the person who he supposed had improperly possessed himself of it. The refusal of the search-warrant placed Canfor in a worse situation than that in which he originally stood. Having failed in procuring the fleece, he then proceeded to another magistrate, who refused to act in a case where a magistrate had already been applied to. He must here observe, that a sort of language had crept into use, in speaking of magistrates, generally, of which he could not approve. One of their most important duties was to trace out stolen property. That was the mode by which they could best protect those who were liable to depredations; and therefore the granting a search-warrant was not a matter of indulgence and favour, but it was their duty to grant it, wherever a fair ground of suspicion existed. But though Mr. Kenrick might refuse the search-warrant, he certainly had no right to decline taking the evidence which was tendered to him on oath. It was a strange course of proceeding to refer to two arbitrators the question, to whom the ram belonged. Why should a reference have been made, until Beale had shown that he had lost something?—until he had proved that he possessed a ram similar to that claimed by Canfor? Mr. Kenrick thought that this course would put an end to the business, not recollecting that another question might remain to be decided, even after the award of the referees—namely, how the sheep got into the possession of Beale (hear)? The arbitrators having decided in favour of Canfor, he produced their notes to Mr. Kenrick; what did Mr. Kenrick himself say on this part of the subject in his petition? He stated, that Canfor brought two samples of wool with him, to show that it was the same as that of the sheep which he had lost, "but your petitioner is by no means con-

vinced thereof." How was it possible for Mr. Kenrick to suppose that this was not the property of Canfor, when the notes, written by two individuals, perfectly competent to decide the question, declared that the fleece was Canfor's property? If Mr. Kenrick were anxious to preserve the character of Beale he took a very bad way to effect that object. There was a *prima facie* case of suspicion against Beale, which could not be cleared up, except by a full and fair investigation. He would ask any magistrate now present, if a charge were made against a respectable neighbour, and he refused a search-warrant to the applicant, whether he would not, on the moment, give notice to the party accused to stand forward, and clear up his character? Would he not write a note in these terms—"a stranger has applied to me for a search-warrant against you—it will be proper for you to come to my house, and show that he is labouring under error?" Mr. Kenrick did not act thus. He washed his hands entirely of the business. He left the complainant to get his property by means of a foolish note, which Beale disregarded. If there were a responsibility on the part of magistrates to use their best efforts for the restoration of property, Mr. Kenrick had in this case neglected his duty. Canfor stated to him, when he found his representations were unavailing, that there was a solicitor at Reigate to whom he would apply for advice. This appeared to have vexed Mr. Kenrick, and he refused to grant the search-warrant because the manner of Canfor did not please him. This was not conduct befitting a magistrate, who ought to guard against all capricious feeling. This, however, was not the worst part of the case. He was sure no gentleman in that house who was in the commission of the peace would say, that he would act with the same disregard of law and justice as it was admitted Mr. Kenrick had subsequently done. An individual applied to him for the restoration of his property, and instead of being assisted, he was himself made a prisoner, and dealt with insolently and outrageously. He was ordered to be searched by Mr. Kenrick's butler, who was made a special constable on the moment for that purpose. A parish constable was then sent for, and was directed to make an assault on this injured individual who came before the magistrate for redress. If magistrates thought proper to behave in this way, they ought to be taught that such conduct was as contrary to law as it was to justice. They should be informed, that they were not to act from the impulse of personal feeling, of offended pride, or wounded dignity. Such feelings ought to be discarded from their minds the moment they ascended the judgment-seat. What was Mr. Kenrick's justification for this outrageous conduct? He stated, that Canfor behaved insolently, that he said he would apply to Mr. Burgess, a magistrate at Reigate; and that he accused Mr. Kenrick with not understanding his duty. Canfor, however, states that he only said he would apply for advice to his solicitor. This, he declared, was the only offence he had given. If any greater offence had been given, let the house consider how well supplied Mr. Kenrick was with evidence to prove it. His butler, George Adams, William Beale, and Mounra. Naah and Ede, could easily prove whether there were any thing improper in Canfor's conduct. Batchelor, the constable of his own parish, who, astonished and bewildered, pro-

ceeded to execute the strange orders of Mr. Kenrick, could also speak to the conduct of Canfor. It had however been said, that no felony had been committed, because the sheep was found straying on a common. He thought the *rt. hon. Sec. (Mr. Peel)* would not adopt that line of argument. The place had nothing to do with the offence, which consisted in clandestinely taking the property of another. It was said that Mr. Kenrick placed the fleece in the hands of a constable as evidence to further the ends of justice. That, however, was not the fact, for he had entirely dismissed the case (hear). The conduct of Mr. Kenrick was the most outrageous he had ever heard of, and his abuse of power in appointing his butler a special constable for the purpose of searching Canfor, was most unwarrantable. Suppose Canfor had resisted—suppose bloodshed had ensued—what excuse could be made for the conduct of Mr. Kenrick? This case was one of the most serious importance. If such a case were viewed lightly by the house, then it became of ten times more importance in his eyes; because it showed how the magistracy of the country viewed such an invasion of the liberty of the subject. He knew it was argued that Mr. Kenrick had paid the penalty of his offence. If the petitioner came to the bar, and demanded 5*l.* damages more than he had obtained in Court, this answer would be complete—"You have accepted a certain sum, and you cannot come here for more." But that was not an answer which would satisfy the House of Commons when inquiring into the alleged misconduct of a judge (hear). It was strange how the House of Commons acted, when cases that might be connected with courts of justice were brought before them. Sometimes, when a complaint was made, they said to the petitioner, "Go to a court of law, establish your case there, and then we will see whether it is necessary for us to proceed." The complaining party took that advice; and having proved the truth of his case, again applied to Parliament, when he was met with this answer—"This is a proceeding on which a court of law has already decided, and the House of Commons is debarred from interfering." The question was, whether it was proper that a magistrate should be intrusted with power who had exhibited so much indiscretion and irritability? Was Mr. Kenrick, after he had been proved guilty in a court of law, to be continued in a situation where he might still further abuse his authority (hear)? Was he to be enabled to the end of his life to deny justice to those who applied for it? Suppose a gentleman's butler had robbed his master, and suffered a twelvemonths' imprisonment as the punishment of his offence, would not the gentleman feel greatly astonished if the offending party applied to be reinstated in his situation? The servant might say "I have suffered the penalty of my crime. I was imprisoned for twelve months, and it is extremely unjust to punish me further by refusing to place me in my old situation." This was precisely the argument used by *hon. gents.* when they said, that as Mr. Kenrick had paid the penalty of his offence, he ought to be no further molested. He thought the magistrates of the country were too much above control. When he said this, he deemed it right to declare that no man could feel more respect than he did for the magistrate who watched over his neighbourhood with paternal care—who settled petty

quarrels, and who exerted his authority to preserve the morals of the people, and to add to their comfort. But he could not approve of that indiscriminate and blind obedience which some individuals seemed to think ought to be paid to the magistracy in general. He thought the Government ought to say, when a case of gross misconduct on the part of a magistrate was brought forward, "Here is an offence of a trying nature, let us examine it, and see whether this magistrate shall longer be allowed to exercise the functions of a justice of the peace in the county where he now acts." When magistrates misbehaved themselves they ought to be dismissed. That was the course pursued in Ireland, and had been followed in parts of this country. A friend had recently written to him, stating that a magistrate of Hampshire had, in the time of Lord Loughborough, been thus treated. An action for false imprisonment was brought against him, and 50*l.* damages were awarded. It was thought necessary to consider whether the individual was fit to remain in the situation of a magistrate. The Lord Lieutenant was unwilling to interfere; but Lord Loughborough and the Government took up the case, and the offending party was removed. The Government, however, appeared now to disclaim that wholesome power. Not a week passed in which complaints were not made against magistrates, but no notice was taken of them. As the power of the magistracy was increased, the superintending control of Government appeared to be diminished (hear). With these views and sentiments he had brought this case before the House of Commons. He was influenced by no private motives (hear). He utterly disclaimed them (hear). With respect to the individual whose conduct was incriminated, he harboured no feelings of animosity towards, and was never, until the present occasion, under the same roof with him. He acted from a sense of public justice; and it was his intention to submit the following propositions to the committee:—

"That this committee is of opinion, that the allegations contained in the petition of Martin Money Canfor have been substantially proved.

"That the said petitioner preferred his complaint to William Kenrick, Esq. one of the magistrates for the county of Surrey, relative to the loss of a ram, and required a search-warrant, to recover the ram as well as its fleece, both of which were in the possession of William Beale, the brother of the said William Kenrick's bailiff, but that the said William Kenrick refused to grant a search-warrant, or to take the depositions of the petitioner.

"That the said William Kenrick, in this respect, appears to have neglected his duty as a magistrate, is not inquiring into facts of a suspicious character; and that his subsequent conduct, in causing the said petitioner to be arrested, and commanding and ordering him to be searched, was illegal, arbitrary, and oppressive, and a gross abuse of his authority as a magistrate."

The first resolution having been read—

Mr. Peel entirely acquitted the learned gent. of harbouring any personal hostility against Mr. Kenrick, or of being actuated by any undue motives in bringing this case forward (hear). The high and manly character which the learned gent. had always maintained, would have sufficiently shielded him against any such charge, if he himself had not said a word about

it (hear). At the same time, he must observe, that the course which he (Mr. Peel) meant to take on this occasion did not arise from any undue bias towards Mr. Kenrick, with whom he had no acquaintance. He was only anxious that they should decide in the manner most consistent with the forms of Parliament, and, above all, with the principles of equity and justice. In the outset, he called on hon. gents. to divest themselves of all prejudice connected with the other case. The present charge had nothing to do with the affidavits in the case of Franks—the committee was called on to consider that of Canfor only. Although there were many gentlemen present who held the situation of magistrate, he was persuaded that they would indulge in no partial feeling on that account. On the contrary, if the house interfered, those individuals would, he thought, be more likely to vindicate the situation of magistrates from any imputation that might be cast on it, in consequence of improper conduct alleged to have been committed by one of their body. The learned gent. had divided the case into two parts—1st, the refusal of the search-warrant on the application of Canfor; and 2d, the conduct of Mr. Kenrick in ordering Canfor to be detained—in appointing his butler as a constable—and in taking from him the note and the fleece. He would pursue the same course in considering the question. He did not propose to contend that Mr. Kenrick had acted with perfect propriety in this transaction, or that no charge of indiscretion could be maintained against him. All he would contend for was, that there was no ground for the interference of the House of Commons. On the first part of the charge he would say, that whether Mr. Kenrick did or did not act as a perfect magistrate, when application was made to him for a search-warrant, he must exonerate him from any corrupt or improper motive. He appeared rather to have been influenced by a desire to act with impartial justice. Whether his note was proper, or whether it did not contain phrases which ought not to have been found there, he would not now enquire. The principal accusation was, that Mr. Kenrick had suppressed a case of felony, and that he had done so under a feeling of corrupt partiality. He, however, denied that any such imputation could obtain credit. It appeared that the individual against whom a search-warrant was applied for, was a man of good character, and of some property; for in the fold where the ram was found he had between 70 and 80 sheep; amongst those a ram was found, which Canfor supposed was his property. Was any concealment attempted? None whatever. The sheep were kept in an open field, accessible to all. (Mr. Denman: "The ram was shorn.") If it had been at the season of the year when it was unusual for sheep to be shorn—or if the other sheep in the fold were not shorn—then there would be some foundation for assuming that concealment was contemplated. But as it happened that it was in the shearing season, and as all the other sheep were shorn, how was it possible to maintain the accusation of attempting to conceal the ram. (hear). When he was asked for the fleece, what would have been easier than for him to have said, "It is not in my possession. I have disposed of it." He, however, at once said, that he had it, but would not give it up. Was it advisable that Mr. Kenrick should issue a search-warrant against a respectable individual

on such slight grounds? Besides, Beale claimed the fleece as his property, which formed a very peculiar feature in this case. Canfor was asked, "Did you tell Mr. Kenrick that Beale claimed the ram as his property?"—and after a great deal of prevarication, he answered that "he did." This was most important; because Mr. Kenrick, knowing Beale's character, would naturally say on receiving this information, "It is a question of property, and I will not ruin this man's character for ever, by issuing, on such grounds as these, a search-warrant." Canfor was asked, "Did you not tell Mr. Kenrick that Beale claimed it as his ram?" He answered, "That he would not give it up to me." Q. "Did you not tell Mr. Kenrick he claimed it as his ram?" A. "No." A learned gent., however, asked him—"How late was it when you saw Mr. Kenrick the second time?"—A. "On Monday, about one o'clock." Q. "On the Sunday Beale maintained the sheep to be his, and the fleece to be his?"—A. "Yes." Q. "And you told that to Mr. Kenrick?"—A. "Yes." Q. "That he said it was his, and he would not give it up?"—A. "Yes; and that I wanted a search-warrant to search his premises, as it was my property." Here, in the course of two minutes, was the most decisive contradiction. After denying the fact, he was ultimately compelled to confess that he did state to Mr. Kenrick that Beale claimed the sheep as his property. Under these circumstances, he thought Mr. Kenrick, in refusing the search-warrant, had acted rightly. In a case of this kind slight circumstances were often of very great importance in leading to a correct conclusion, and he wished the house to observe, that Mr. K., who was said to have acted partially on account of a sort of acquaintance with Beale, did not know the Christian name of the person whom he was supposed to be so anxious to favour. That piece of information he received from the butler. It also appeared that the butler, who was acquainted with Mr. Kenrick's feelings towards the accused, handed a search-warrant to him for the purpose of having it filled; but Mr. Kenrick merely stated that he did not think it necessary in this case. On this part of the case the general impression must be, that no undue, corrupt, or improper feeling had been made out which could warrant the house to interfere in the matter. He now came to Mr. Kenrick's subsequent conduct towards Canfor, and on that he thought that Mr. Kenrick in calling on his servant to act as a constable, and seizing the note he had given to Canfor, had acted in an indefensible manner. A civil action had been brought against him, and a verdict obtained, which proved he had acted improperly. But whether the house would feel themselves called on to animadvert on this indiscretion with the severity urged by the learned gent., was a question admitting of considerable discussion. For his own part, he thought it would not become parliament to proceed vindictively, because Mr. Kenrick had detained Canfor in his house for one hour, that individual having obtained damages for the false imprisonment. Mr. Kenrick had acted improperly, and he was sorry that he had suffered his temper to prevail, but they ought not to lose sight of the provocation which he had received. They had been told that they were to draw no unfair conclusion from Canfor's conduct at the bar, because he was so overwhelmed by the novelty of his situation, that he was unable to give

so correct evidence as he otherwise might have done. Of course, he was extremely terrified when placed before the Commons of England; but the house could not forget his demeanour; and from the specimen they had seen, it was possible that in the heat of summer, and under the feelings of irritation for the loss of his ram, his conduct to Mr. Kenrick might not have been of that mild and conciliatory nature which would please a magistrate. When it was considered, besides, that Canfor had threatened to hand Mr. Kenrick over to his solicitor, he (Mr. Peel) was induced to believe that the whole of his conduct had been offensive and provoking. He did not say that if the provocation had been greater, it would be a sufficient excuse for Mr. Kenrick's forgetting the moderation and temper which became his situation as a magistrate, but it must at the same time be allowed to have some weight when the house came to determine the amount of delinquency in the case. A great stress had been laid upon Mr. Kenrick's having thought proper to detain the fleece. He thought the reason which that gentleman gave for having done so was very satisfactory: believing it would thereafter become the subject of a civil action, he had taken it into his own possession, that it might be forthcoming at the proper time. He knew that he could not justify his conduct in a court of justice—but still the motive which had influenced him ought not to be lost sight of by the House of Commons when they were called upon to pronounce a censure upon a magistrate. The learned gent. said, that because one part of a man's conduct had been the subject of an action in a court of justice, it was no reason why other parts of it should not afterwards be investigated. He agreed with him in the general principle, and he agreed that the criminal conviction of a magistrate was a sufficient ground for the Lord Chancellor's removing him from the commission; but the question in this case, as in every other, must be, whether such a punishment would be commensurate with the offence charged; and here it must be remembered, that there was not only no conviction, but not even a criminal charge. He knew the same thing had been done in Ireland, even without a conviction; but that proceeding was not approved of in this house, and it had been said that the Lord Chancellor for Ireland would have done better to follow the English practice. The learned gent. had alluded to the case of a servant who should rob his master, but he put it to his candour whether there was the slightest resemblance between that case and the present. Mr. Kenrick's conduct had never been brought before a court of justice. Canfor had accepted of it as a composition for his action; and it was said that he had now presented his petition to the house solely from the love of public justice, and to prevent an improper person from holding any longer an authority which he had abused. He (Mr. P.) did not think that any of these allegations had been proved. He denied that any charge of felony had been suppressed or attempted to be suppressed by Mr. Kenrick. He denied, at least he doubted, that Canfor had been influenced by the motives foisted into his petition. He believed that, hearing of Franks's case, Canfor thought it was a good opportunity for bringing forward his own complaint. He would not, however, have it supposed that Mr. Kenrick ought to be dismissed with a sentiment of approbation: his conduct was such as

could, in no point of view, be justified; but it was not such as called for the interference of the house. He should therefore conclude by moving a resolution, which, although from what had been said last night he had reason to believe it might be unsatisfactory to some hon. gent., was in his opinion consistent with the justice of the case, and with the usual practice of the House of Commons, viz. "that this committee, after hearing the evidence brought in support of the allegations of Mr. Canfor's petition, and the counsel for Mr. Kenrick, do not think it expedient to recommend any further proceeding in reference to that petition."

Mr. Tierney never heard a resolution less satisfactory, though he was ready to admit the candour with which the rt. hon. gent. had expressed his utter incapacity to approve of the conduct of Mr. Kenrick. He (Mr. T.) went, however, a little farther, and thought that the house would lower itself in the estimation of the public, if it did not in the most unequivocal manner mark its sense of the outrageous conduct of that gentleman, and protect the people against any future mal-administration of justice in the same quarter. There were two questions involved in the subject before the house. One, whether Canfor had received sufficient redress for the wrong he had sustained; the other, which deserved the serious attention of the house, whether some security ought not to be provided to protect the public against injury in future, from acts similar to those now complained of; because other magistrates might, like Mr. Kenrick, misuse the very extensive powers with which they were intrusted, and instead of preserving the public peace, become instruments of oppression to all over whom they had authority. The first part of the case made out against that gentleman, was his refusal to grant a search-warrant on Canfor's application; the second was his imprisonment of that person in consequence of his refusing to give up the note and fleece.—The rt. hon. gent. said, that all attempts to prove any corrupt motive on the part of Mr. Kenrick had failed. It was not necessary to prove any such motive; but whether any such motives existed—whether Mr. Kenrick's temper were so violent as to be beyond his power of controlling it—or whether he had not the capacity to execute the duties of his office—the rt. hon. gent. might choose which he would—it was obvious that Mr. Kenrick was unfit any longer to remain in his situation as a judge. The rt. hon. gent. said, that Canfor's manner was calculated to provoke the magistrate; but he had travelled in search of his ram, until the blood ran out of his breeches knees; and it was no wonder that he should be chafed a little when he applied to the magistrate. When he was imprisoned, he showed no symptoms of violence; the violence was all on the side of the magistrate. Let the house consider whether the man had not some excuse for being a little out of temper. It must be remembered that Canfor was not acquainted with all those niceties and refinements which a lawyer had at his fingers' ends; he was only a butcher. He said to the magistrate that he had lost his ram, and after walking a long time in search of it, he had at length found it in the fold of another man. That man told him he would neither give him his ram nor show him the fleece which had been shorn from its back; and he therefore asked the magistrate to give him a search-warrant, which he thought

was the best means of getting possession of his property. So every man in his situation would have thought. Well, Mr. Kenrick was not then angry; he said, "I won't grant you a search-warrant; but I'll give you a note to the man, who, you say, has got your ram, and this will operate as a summons and bring him to me." He found no fault with this proceeding, excepting that Canfor's evidence was not taken on oath. To grant a summons, might have been the best; he believed, indeed, that it was the common course. Mr. Beale, who had the ram, was said to be an excellent character. He did not dispute it; but he must be permitted to say that Mr. Beale's conduct with respect to rams was very extraordinary (a laugh). Mr. Beale had lost a ram that had a mark upon its ramp. He happened to find another, which had a mark on its side, and he said to himself, that although this was not his, it would do as well as another; so he took it home, and to prevent any mistakes about the mark, he sheered the fleece off (laughter). The owner of the ram saw it, and notwithstanding the change it had undergone, he recognised it to be his, and told Mr. Beale so, who refused to give it up.—Canfor then said, "Show me the fleece, and I'll convince you it is mine." Mr. Beale who had taken the ram in the manner described, refused this request, which seemed very reasonable. This made Canfor very angry, and no wonder that it did. He then went to Mr. Kenrick, and solicited redress in what he thought the best manner, that was to say, by a search warrant. Mr. Kenrick gave him a note instead, and with this he went to Mr. Beale again. Says Beale, "I won't show you the fleece, and I don't care for Mr. Kenrick nor his note either." This of course made Canfor still more angry, and as he found Mr. Kenrick's note of so little use to him, he went to another magistrate, Mr. Burgess, who, from a regard to etiquette, which might be proper enough, refused to interfere. Canfor had therefore nothing to do but to go back again to Mr. Kenrick, and he did so; and then came what he (Mr. T.) thought a very material part of the story. Canfor found Mr. Kenrick's servant, George Adams, who was a principal actor in the drama. This person, who was no doubt a very excellent clerk and a worthy butler, said, "My master will have nothing further to do in this business." This singular saying had never been contradicted. Mr. Kenrick in his petition, which was in fact an answer to Canfor's, did not rebut this statement. Did the rt. hon. gent. mean to say that he acted correctly here? The rt. hon. gent. had objected to the illustration used by his learned friend of a servant who rubbed his master; but suppose that he had lost his plate, and found it where it was in considerable danger of being melted—suppose he then applied to a magistrate, and said, "I have found my plate, but if you don't assist me to get it back immediately the arms will be rubbed out, and I shall never be able to identify it." This case of the fleece was exactly the same, and he asked whether any magistrate (he spoke in the hearing of many) would refuse to give him any help, and say as Mr. Kenrick had done, "No; I will have nothing further to do in the business." His objection to grant a warrant might be reasonable enough; but was there any reason why he should have refused to investigate the affair? All that the poor man got, instead of the redress he went for, was a mes-

sage through the butler, to the effect that Mr. Kenrick would have nothing more to do with it. Canfor then grumbled, and it was not surprising that he did so; upon which the butler said that Beale had been there, and that there was a proposition to refer it to Mr. Nash. Canfor said he did not care to whom it was referred, if the fleece should be produced, because without that, it would be impossible to satisfy the referee. Now, although before this, Mr. Kenrick knew nothing of Mr. Beale, he had in the interim become acquainted with him through his butler. The matter was then referred, and the result was, that Canfor got both his ram and his fleece. He might then have gone home if he had chosen, but he said, "No; I'll go to Mr. Kenrick again, and show him that I have had an award in my favour, and that I have not made an improper charge." He went to Mr. Kenrick, and there the scene was entirely changed. "Oh, you dog!" says Mr. Kenrick, "you have got back your ram and your fleece, have you? then I'll make a special constable of my butler, and have you taken into custody." And this was what the poor fellow got for calling upon the magistrate to pay him a passing civility. Mr. Kenrick gave as a reason for this, that he wished to keep the fleece, because it might be necessary afterwards to produce it in a court of law. Now, without meaning any thing in the least degree uncivil to Mr. Kenrick, he (Mr. T.) must take the liberty to say he did not believe this. Mr. Kenrick, it must be remembered, was a judge; he had no such excuse as other persons might have pleaded. He was well acquainted with the law, and he must have known whether such a pretence was well founded or not. He might have produced Rde and Nash, the referees, and Adams and Beale; but he had not done so; and therefore, he (Mr. T.) must be forgiven, if he did not believe one word of a statement which was opposed to his own common sense. Canfor having refused to give up the fleece or the note, Mr. Kenrick told his butler, and another constable, to search him and seize the note. Canfor brought an action for this imprisonment, and Mr. Kenrick, when it came to trial, thought fit to compromise it. The action was put an end to by the payment of 5*l.* and the costs. A good deal had been said about Canfor's motives, but he did not care what those motives might have been. The house had nothing to do with them; but since, by a sort of God-send, the case had come before them, were they to shut their eyes to it? The rt. hon. gentleman had said, the case was not worthy of the interference of the house. If this instance of violence and of intemperate use of the authority he had been intrusted with was not a reason why the conduct of a magistrate should be investigated, what case could require an investigation? It was said that the case of Franks must not now be taken into the account. He did not want to do so, but the facts of that case had been made so public that no one could forget them. A piece of wood of the value of one shilling had been stolen from Mr. Kenrick, for which he committed Franks to gaol, and after he had been confined two months, and exposed to every privation, offered to let him out if he would plead guilty. He (Mr. T.) could not help thinking that, notwithstanding his opposition to the resolutions of his learned friend, it would not be the rt. hon. gent's fault if Mr. Kenrick was

not persuaded to quit the premises, and not interfere further with the administration of justice. He had said that, in Ireland, magistrates had been removed without being convicted, and that such a practice had been blamed; but the difference between those cases and the present was, that here the party had been convicted. (Mr. Peel said the action against Mr. Kenrick was a civil one.) He (Mr. T.) knew it was; but he was sure the *rt. hon. gent.* was too candid to cavil for a strict interpretation of words when the result of that action was in fact a conviction. It was the duty of the Lord Chancellor, or of ministers, or whoever else might have to advise his majesty, to recommend the removal of Mr. Kenrick. He had never heard of a case more suspicious or more disgusting than this; and he could not imagine any person less fitted to discharge the duties of a magistrate than one who had conducted himself like Mr. Kenrick. Whether the resolution of his learned friend was the best they could adopt, he did not decide; but he had no hesitation in voting for it. He said so without any feeling of ill-will towards Mr. Kenrick, of whom he knew nothing, and with whom he had had no communication. He knew that the interference with the conduct of magistrates in their judicial capacities was always a matter of delicacy. He knew that it was easy to bring charges against them, and that it was difficult to rebut those charges; but he thought, in the present case, that the charge had been satisfactorily substantiated, and that the interference of the house was urgently called for. He had himself often refused to present petitions against magistrates, because he was not satisfied with the nature of the complaint against them, and he would not have been instrumental in fixing upon them the imputations which must arise from such charges being printed and dispersed throughout the country, when the proof might have fallen short of the facts stated. This case, however, he thought, had been fully made out, and he implored his Majesty's ministers to consider the consequences of denying justice to the people, and the necessity of preserving in the minds of all men a good opinion of those who were intrusted with the administration of it (hear).

Mr. *Canning* said, he fully concurred in the last sentiment of his *rt. hon. friend*, but before the house came to the conclusion which he would press upon them, they would do well to consider whether the case was of so grave a nature as to justify the course proposed by the learned gent. Nothing could be more untrue, than that because ministers were not prepared to go all lengths in censuring the conduct of Mr. Kenrick, they therefore approved of it. The question was, whether the case called upon the house to exercise that highest and most transcendent power which parliament unquestionably possessed; and if it did not (as he thought it did not), whether they should pursue an intermediate course which would brand Mr. Kenrick with an imputation which would render him powerless in the high office he held, and thus produce a great public mischief. Without going into the details of the case, he was decidedly of opinion that neither of these courses should be adopted. He had no acquaintance with Mr. Kenrick: he had no partiality in his favour, and yet he must say that this was the most trumped-up case upon which it had ever been proposed to found so grave a charge. The

whole extent to which it reached proved only that Mr. Kenrick had been guilty of an indiscreet and culpable want of temper in his interview with Canfor. With respect to the search-warrant, that part of the case was given up. That he had suffered his temper and his discretion to be overcome, could not be denied, nor could it be justified; but the complaint and provocation must be taken together. Was the loss of temper in an interview with that provoking individual, who had lately appeared at the bar of that house, so great a crime that it could only be sufficiently punished by removing the person who committed it from his office of judge? He could not in his conscience say that it deserved any such punishment; and as that was the only one which could be inflicted consistently with the interests of the country, he would not consent to adopt that other measure, as unjust as it was inconsistent with those interests, of blasting the character of the person accused, and yet leaving him in the possession of his office. This was the short view which he had taken of the subject, and which had determined him not to vote for the resolutions of the learned gent., which would be nugatory unless they were followed up by an address to his majesty. It could not be denied that flying into a passion—the only charge proved against Mr. Kenrick—was a moral fault; but the House of Commons must be cautious in inquiring into the private life of persons, because it might happen that the most respected characters, whose public conduct was without reproach, might be open to similar imputations in their private habits.

Mr. *H. Summer* expressed his astonishment at the view taken of the case by the right hon. gent., and at the severe strictures which had been passed upon the manner in which Canfor had given his evidence at the bar. It should be recollected that this man was a person of no education, and that he had adopted a manner which he thought would evince his independency, and about which he might afterwards boast to his pot-companions, when he detailed to them his conduct at the bar of that house. But although he could find no other excuse for that manner than the man's vulgarity, he felt himself bound to state to the house that the facts in his evidence were the same, without any alteration, as those which he had detailed to him ten days after they had occurred. This consistency (while there were so many inducements to vary, if he had been the man he had been represented to be) convinced him (Mr. H. S.) of Canfor's veracity. Those who treated the present question as trifling, did injustice to the interests of the public; and the statements as to Mr. Kenrick's character did not alter the nature of the transaction; and that was a point upon which there might be two opinions. After so much as had appeared before the house—after the intemperate conduct which had been proved upon Mr. Kenrick—it was impossible to leave him, without full investigation, in the discharge of duties which he could not continue to exercise without suspicion.

Sir *Francis Burdett* took the short question to be—a question which the house was bound to pursue in any shape, and by all available inquiries—whether Mr. Kenrick had or had not exhibited such qualities of character as ought to exclude him from further filling two such offices as those of justice of the peace, and judge upon a circuit. In his opinion this had

decidedly been the case. He by no means looked at the transaction in the light in which it was attempted to be presented by the hon. gent. opposite; and was far from concurring in the doctrine laid down by them, that persons in office should not experience the animadversions of that house, unless they had been guilty of such criminality as justified an address to the Crown for their removal. If gentlemen in those situations were led to believe that they would be exempt from the consequences of all minor offences, they would, in all probability, become less observant of their duty. But, seeing that it was too late now in the session to obtain all the evidence which Mr. Kenrick might think necessary to his justification, he should advise his learned friend to rest satisfied with the opinion which the house had already expressed; leaving upon ministers the responsibility of declaring how far, upon their own investigation, the resolution moved ought to be carried into operation, and reserving to himself the opportunity, in the next session, of inquiring what discretion had been exercised. In proposing this course, he desired to be understood as fully ready to go all the length proposed by his learned friend, and as being decidedly of opinion, that, upon due consideration, there was only one course which the right hon. gent. on the other side could adopt. He concluded by observing—while the house was on the question of dismissing judges—that there was a petition to which he should, in the next year, call its attention, from a Mr. Thorpe, late judge at Sierra Leone, who, as it appeared to him, had been dismissed from his office upon grounds far lighter than those now proved before the house, and in the greatest degree unjust and unsatisfactory.

Mr. *W. Courtenay* said, that it was quite impossible to cast upon ministers the responsibility of dismissing, upon their own investigation, a judge from his office, against whom the house had not gone so far as to come to any vote of reprehension.

Sir *F. Burdett* said he had only referred to Mr. Kenrick's removal from the commission of the peace.

Mr. *W. Courtenay* considered that view of the case still more extraordinary than the other. Was it possible for ministers to come to a resolution that a gentleman was not fit to be a magistrate, and yet allow him to go on filling the office of a judge?

Mr. *Denman* said, that in one view of the case the house seemed to differ very little in opinion. When a rt. hon. gent. opposite, in defending Mr. Kenrick, spoke of his conduct as discreditably intemperate, and highly blameable, this was coming as nearly as possible to the language of his (Mr. Denman's) own resolutions. Under these circumstances, still maintaining that his resolution, in its fullest extent, was the correct one, he should rest satisfied with the house having pronounced no decision upon the case, and should not press his vote to a division.

Mr. *Wynn* admitted some haste and intemperance in Mr. Kenrick's conduct in the present case, but declared that his conduct as a judge in Wales had always given the highest satisfaction. He doubted how far the severe dealings with Mr. Kenrick for his warmth would form a convenient precedent. Suppose it were to be made a question how far a gentleman, who, in a committee of that house, had

been so intemperate as to commit a violent assault upon another, was fit to remain a member of parliament (hear, hear, and great laughter)? He believed that there had been a great many admirable judges, whose conduct would not have borne this inquiry which was to be indicted upon Mr. Kenrick. In conclusion, he would say, that if it had been proved that Mr. Kenrick had acted from corrupt motives, that would have been a sufficient ground for addressing the Crown to remove him from his office; but no such fact had in his opinion been established, and he thought the case as it at present stood, was too slight to require any notice to be taken of it by that house.

Mr. *Denman* said that the cases of a choleric member of parliament and an intemperate magistrate were not parallel. The violence of the former could injure no one but himself; whilst the intemperance of the latter might prove hurtful to those whom it was his duty to protect.

The *Chairman* then put the question on the amendment, which was carried without a division.

### *Appellate Jurisdiction of the House of Lords.*

LORDS, FRIDAY, JULY 1.—The Earl of *Liverpool* rose to call the attention of their lordships to the state of the jurisdiction of the house with regard to appeals. In consequence of the immense arrears of appeals which had accumulated, their lordships found themselves, a few sessions ago, called upon to consider whether some means could not be devised for facilitating the administration of justice. A committee was appointed to consider the subject, and that committee made a report in the session before last. What the state of things then was, would be seen by reference to the first paragraph of the report. It appeared that the number of appeals and writs of error then existing in arrear was 225, out of which 150 appeals were from Scotland. This number, in consequence of the accumulation which was to be expected in the course of each succeeding session, rendered it probable that the house, in the ordinary course of its proceedings, would not be able to dispose of the appeals in arrear in a less period than five years. The committee found that those from Scotland were not only the most numerous, but that they were of the description which occupied the greatest portion of the time of the house. The question of arrear, however, was, the difficulty which their lordships had to encounter; for if the arrear could be got rid of, it would be easy to decide future appeals in the ordinary course. To facilitate the decision of cases from Scotland, an endeavour had been made by a change in the legal proceedings to separate questions of law from questions of fact. This measure, the effect of which must be very advantageous, was just coming into operation; so that their lordships might be confident, if they once got rid of the arrear, that they could go on prospectively without any difficulty. The report of the committee contained a number of valuable suggestions. Among other things it was recommended, that a certain number of their lordships would attend daily, from nine o'clock to five, for the purpose of hearing appeals. Objection had been made to compulsory attend-



ance; but this course was finally adopted, and their lordships had had the advantage of the able assistance of a learned lord (Gifford), who had devoted much of his attention to proceedings in appeal, and in particular to the law of Scotland. The beneficial effects of this arrangement were soon felt on its coming into operation in the course of last year. At the commencement of last session the number of appeals was 322, and of writs of error 74, making altogether 396. During the session, 186 of these appeals were gone through, above 40 of them having been struck off; so that at the end of the session there remained only 170 undisposed of. But their lordships had to look, not only to the number of appeals they decided, but to the number of new ones which were brought forward in a session. The number which had come in on the commencement of this session was 52. The number of appeals then standing was 201, and the writs of error 23, making only 229, instead of 326, as at the beginning of the preceding session. Of this number, 229, their lordships had already disposed of 126, so that there remained only 103 undecided. If their lordships proceeded in this manner, by the end of next session there would be left only 26 or 27 appeals undecided; but whether that number, or a few more or less, it was evident that by going on they would completely conquer the difficulty which once appeared insurmountable, and that this would be done independently of the improvement in the law of Scotland, which would render less probable so great an accumulation of appeals from that country in future. It had been said, however, that this arrangement would only give occasion to more appeals being brought. He did not think so. If their lordships once showed that they were capable of promptly discharging all the judicial business which came before them—if no delay were expected, so many appeals would not come before them. The decrease of appeals during the two last sessions fortified him in his opinion. In 1823, the number was 59; in 1824, the number was 39; and in the present session of 1825, only 29. He now proposed, that of the five days of every week, on which a part of their lordships sat to hear appeals, one day should be appropriated to the hearing of those which should come in, in the course of the existing session. If this arrangement were commenced next year, it would probably have a considerable effect both in disposing of appeals, and in taking away the inducement to the bringing of them. The result of their lordships' decisions might also be stated. It appeared that out of 86 appeals brought during the session, 63 had been affirmed, 17 reversed, and 6 remitted. The arrangements which had been adopted, his lordship said, had, generally speaking, given great satisfaction in Scotland; and after expressing his sense of the credit due to the committee for originating the plan, so the house for carrying it into effect, and to all persons who assisted in its execution, he concluded by moving for certain papers relating to the state of appeals.—Ordered.

### *County Courts' Bill.*

COMMONS, TUESDAY, FEB. 8.—Lord Althorpe rose to move for leave to bring in a bill to facilitate the recovery of small debts in England and Wales, and observed, that it

would be unnecessary for him to go into detail upon this measure, as he had during the last session fully explained his object, when a similar bill was rejected elsewhere, in consequence of his refusal to allow compensation for certain sinecure offices which it was said would be affected. He now consented to introduce a clause for the purpose of allowing such compensations; although he retained his former opinion that the bill would be better without it, yet he yielded to the wishes of others, and was anxious even at this expense to forward the measure. After the second reading of the bill, to which he understood in its new form there would be no objection, he should move for the appointment of a committee to consider of the sinecure claims, which he believed would be found smaller than he at first apprehended. He then obtained leave, and brought in his bill, which was read a first time, and ordered for a second reading on Friday next, and to be printed.

FRIDAY, MARCH 4.—Mr. Scarlett presented a petition against the bill for the recovery of small debts, signed by a number of gentlemen connected with the profession of the law. The learned member said, that he considered the measure introduced by his noble friend (Lord Althorpe) as too violent an innovation on the existing form of proceeding to obtain the sanction of parliament.

MONDAY, MAY 2.—Lord Althorpe brought up the report of the committee on the County Courts' bill.

Mr. Brougham said, that in consequence of the alterations which had been made in the committee, having for their object to prevent the increase of the influence of the Crown, the bill now met his entire approbation.

FRIDAY, MAY 13.—Upon the report of resolutions upon the County Courts' bill,

Lord Althorpe argued against any compensations being granted to officers of courts of justice, for the loss of fees arising out of the reforms made in the courts by the present bill. The compensations proposed were to be granted for the loss of professional profits, against all the known chances and vicissitudes of professional life. He objected to any compensation being made to any individual who could not prove an actual loss arising out of the present bill.

Mr. Hume wanted to know whether, if compensations were given to those who suffered in the present instance, gentlemen were prepared to support the principle of giving compensations to all who, in any case, should suffer a loss of fees under any bills of reform and improvement? The claims in the present case were grounded upon the argument, that the claimants were injured in offices which they had acquired by purchase. For his part, he thought that the sale of offices in courts of justice was in itself a great evil, and the first step ought to be, to prohibit any such sale, and thereby to prevent any claim for losses sustained by a reform of purchased offices. The whole system of fees was pernicious in the extreme. As to the compensations claimed in the present instance, upon the same principle might compensation be claimed for losses by any manufacturer who had established his manufactory upon the faith of laws, and had sustained injury by an alteration of such laws

two individuals in the house, the compensations would never have been heard of. The noble lord, who was the origin of the measure, would never have consented to the compensations, but from a knowledge that without acquiescence in this demand, his bill would not pass through the other house. What a state were they reduced to, if they were obliged to vote away the public money, merely to prevent the opposition to a useful measure, by a party personally interested in the abuses which that measure was intended to reform.

**THURSDAY, MAY 19.**—Lord *Althorpe* moved the third reading of the County Courts' bill, which was then read a third time.

Mr. *Alderman Wood* proposed a clause, by way of rider, to exempt the city of London from the effects of the bill.

Lord *Althorpe* had no objection to the clause, because, in the old County Courts' bill, the city of London was not included.

The clause was then agreed to, and added to the bill by way of rider.

Mr. *Bright* proposed a clause of a similar nature with regard to Bristol, which was agreed to.

The bill was then passed.

**LORDS, TUESDAY, JUNE 21.**—The house went into a committee on the County Courts' bill, when, after a conversation, in which Lord *Ridgdale*, Lord *Ellenborough*, Lord *Darnley*, and the Lord Chancellor took part, the house resumed, and the chairman (Lord *Shaftesbury*) moved that the report be received this day three months. The motion was agreed to, and the bill consequently lost. The chief ground of opposition stated by the Lord Chancellor to the measure was, the want of a clause for compensating those officers in the existing courts whose income would be affected by the passing of the bill. His lordship recommended a commission to inquire into the subject before any measure should be submitted to parliament.

### *Court of Chancery.*

**COMMONS, FRIDAY, FEB. 18.**—Mr. *J. Williams* moved for a return of all the appeals decided in the Court of Chancery, between the Hilary terms of 1823 and 1825; and the causes upon which they were disposed of, distinguishing those decided by judgment from those which were struck out of the paper. Also other returns, which went to show the state of the business, and the general rate of dispatch.

Mr. *Peel* objected to the motion, because the usual notice was not given.

Mr. *J. Williams* said, that the first part of the motion was in mere continuation of returns already before the house.

Mr. *Peel* would not object to so much of the motion.

Mr. *J. Williams* moved for the first-mentioned returns accordingly, and gave notice of a motion for the production of the remainder.—*Ordered.*

**MONDAY, APRIL 25.**—Mr. *J. Williams* begged leave to ask the rt. hon. Sec. for the Home Department, whether there were any prospect of the report of the commission appointed to inquire into the practice of the Court of Chancery being laid before the house?

Mr. *Peel* said he was not prepared to give a satisfactory answer to the question. He could have no official communication with the commissioners until the report was made. As to the progress made in the inquiry, or the approximation towards the completion of the report, he possessed no official information. He would advise the learned member to address his inquiry to the learned member for Exeter (Mr. *Courtenay*), or some other member of the commission.

Mr. *Brougham* expressed his surprise that the commission had not yet laid any information before the house, particularly as the Solicitor-General had some time ago informed the house that they might soon expect a "partial report" on the subject.

Mr. *Courtenay* said, it would be improper for him to attempt to fix any time at which the report of the commission would be made; but the commissioners had not been idle, and had no wish to delay the presentation of the report. He believed he might say that the report would be presented in the course of the session, but he would not be understood as pledged to that declaration. He was sure that the house would see the propriety of his speaking so guardedly, when they recollected that the object of the commission was to inquire into the practice which had existed for centuries in the highest court of judicature in the kingdom. Whatever his learned friend might think on the subject, the commissioners were of opinion, that no alteration should be made in the practice of that court without full and deliberate discussion. The commissioners had reviewed the whole practice of the court from its very commencement; and before they could be prepared to recommend any improvement of the present system, they must take time to consider the subject deliberately.

**TUESDAY, MAY 21.**—Mr. *J. Williams*, in rising to present certain petitions touching delays and other grievances in the Court of Chancery, said, that although it would be competent to him to submit to that house a distinct motion on the subject to which the petitions referred, yet, as it was presumed that a report, whether partial or general, was shortly to be laid before the house by the commissioners appointed to inquire into the forms of proceeding in the Court of Chancery, he preferred postponing such motion, as there might exist a difference of opinion as to the propriety of proceeding before that report was presented. But of this he was persuaded, that there did not, without the doors of that house, exist a single person, and he trusted that few would be found within it, who were not satisfied, that no matter what the character of that long expected report from the commissioners, no long interval of time would be suffered to elapse without a thorough reformation being effected in the proceedings and jurisdiction of that court (hear, hear). There was, it was said, a limit to forbearance in human suffering. But there was a patience of another character, in the display of which a certain class of men were most exemplary, and in which it did seem that the present commissioners were not deficient—a patience as to the sufferings endured by other people (hear, hear). When that commission was appointed, he felt no hope. He therefore was not disappointed. He had, perhaps, in his view that observation of Burke—that serious reformers

would never choose the authors and abettors of the system to be reformed as instruments for its correction. He thought the appointment nothing but a parliamentary manoeuvre of the rt. hon. gent. opposite (Mr. Peel) (hear, hear). He would admit, that if he sat on the same side, had the same object as, and possessed the countenance of the rt. hon. gent., he might have followed the same course (hear, and a laugh). But he was surprised that the right hon. gent. could have mentioned the commission with a serious countenance. He believed that not even the gravest of his Majesty's ministers, from the learned lord to the rt. hon. gent., could peruse the list of commissioners, and reflecting on the object for which they were appointed, could refrain from laughter (hear, hear). However, he was not sorry that the commission had been so tardy in their proceedings. The period which they had suffered to elapse, had given the system time to work, as the phrase was. It had brought things to maturity, and more fully showed the necessity of the reform for which he had contended. It now appeared that the number of causes and appeals which remained for hearing were upwards of four hundred. The judgments to be given in causes, appeals, petitions, and other "matters and things," as they expressed it in that court, amounted to 1,200 (including the causes to be heard). Looking at the mode in which business had proceeded in Chancery since the year 1813, and taking the average of causes heard each year in that time, as the measure by which to judge of the future progress of the court, the last cause now on the list would come on for a hearing (he would not say when for judgment) in forty years from the present date (hear, hear). The evil had arrived at maturity, and called for a thorough reformation: a mere revision of the forms of proceeding would effect no beneficial change; from the present commission, therefore, he expected nothing. If thirty years should be considered a little too long for the duration of a Chancery suit, or 10,000*l.* a little too much to be expended on it, perhaps they would receive from the commission some such copious relief, as a reduction of the time to twenty-nine years and nine months, and of the expense to 9,999*l.* (hear). He, however, did not despair, but looked to a prompt reformation of this overwhelming jurisdiction, so much at variance with the principles of our common law. If such evils had arisen under the direction of consummate wisdom, it was time for folly to see what it could do in the reform of them. The time would come, when the country would not be satisfied with going merely to the rind and surface of this jurisdiction—a jurisdiction depending on no legal enactments, nor resting like the common law on any immemorial usages (hear). He said resting on no immemorial usages, for Sir Wm. Blackstone had said, that though there had been many accurate writers who treated on courts and their several jurisdictions before the period when the time of immemorial usage commenced, not one of them had taken any notice about the equitable jurisdiction of the court of Chancery,—of that court, which had now swollen to such a magnitude, that it actually reeled and staggered under its own weight. Some persons might be inclined to ask, how was this jurisdiction founded, if not in legislative enactment or in immemorial usage. It

was founded in the conscience of the keepers of the great seal, of which, as they had generally been priests or lawyers, he would say, that it was a sandy foundation for a great paramount jurisdiction. Selden, in speaking of the origin of the court of Chancery and its way of conducting business, made use of the following expressions:—"For law we have a measure, and know what we have to trust to; but equity is according to the conscience of the chancellor, and as it is shorter or longer, so is equity. It is the same as if it were measured by the chancellor's foot. What can be more uncertain? One chancellor has a long foot, another chancellor has a short foot, and a third chancellor has an indifferant foot: and so it is with the chancellor's conscience" (loud laughter). Now, if this were a fair description of the foundation on which the jurisdiction of the court of Chancery rested, that by itself would form a sufficient reason for inquiry into the jurisdiction of the court of Chancery, even if there were not other reasons which rendered that inquiry unavoidable: such a task could not be executed by a commission of mere lawyers, though he was certain that the length of time during which the present commission had been engaged, would ultimately tend to accelerate and consummate that good work, it would become worthy of consideration whether, in place of such a system, it was not high time in this thinking country, as Mr. Cobbett had ironically called it, to substitute another, and attempt a system on the authoritative foundation of the legislature of the country, ascertaining, describing, defining, limiting, and laying down, certain rules for the guidance of suitors, so that they might in future have to trust to legislative enactments, and not the conscience of any chancellor (hear). It was impossible that the country would long allow the question to remain unexamined, how far it was expedient, that there should be two conflicting systems of judicature, co-existing in the same country—a phenomenon in jurisprudence, which he had the authority of Sir William Blackstone for saying, was not known in any other country. It would be convenient for the people of England to learn, whether it were proper that by law a remedy should be pointed out to the suitor for a grievance—that he should be at liberty to pursue that remedy up to a certain point—that, after he had advanced so far, he should be withdrawn from the tribunal in which he had claimed redress to another tribunal, proceeding upon separate rules, and acting upon a contrary law—that he should be forced out of the court which would have submitted his case for trial to a jury of his country, to be placed in a court of equity, where the most unsatisfactory mode of trial was pursued, by admitting written interrogatories, and none else, to be administered to a witness in one place by an examinant in another, and by leaving the effect of those interrogatories, indefinite and uncertain as they were, to be afterwards judged of by a single individual—that he should be torn from a tribunal of which the rules had often saved the constitution, to be dragged into another, which acted on rules intelligible to few persons and beneficial to none; and that when he had arrived, as he supposed, at the end of his trouble, when he had made the court acquainted with all the facts of his case, the court of Chancery should then be allowed

to interfere—and till then it was not allowed to interfere—to render unavailable all the measures he had taken; and that, too, without grounding its proceedings on a single affidavit, though the result of them was to rob the suitor of the righteous fruit of his judgment—namely, his execution (hear, hear). Circumstances like these must, he was sure, become the subject of grave inquiry, when this commission limited to the skirts and fringes of the court of Chancery—this commission for entering into its mere rind and surface, and for not proceeding any further—this commission for considering how much it was possible to shorten the distance between the first subpoena and the final answer should have passed away, and left no trace of its existence. The circumstances he had mentioned must ere long form the substantial and paramount parts of some legislative inquiry. The country would not much longer endure that an equitable jurisdiction should, after a suitor had almost reached the termination of an action at law, take that action from a court which knew the facts of it, and place it in another court which knew nothing of them, and which compelled the suitor to incur an expenditure to tenfold the amount of that which he had previously incurred in the court of law. Whether the present commission were engaged in such inquiries or not, it would be fitting to inquire how far it was right in this thinking country, that a man, who had made himself master of a sum of money under circumstances of palpable fraud, should be able to defend himself successfully against all summary proceedings for the recovery of it. Was it right that a trustee who had misapplied trust money in his hands, should have the doors of equity thrown open to him, so as to find refuge within it from the just claims of those whom he had defrauded? As the law now stood, the person injured could not obtain any redress as against a trustee without seeking the door of the court of Chancery, which the moment he entered was closed for ever against his escape. So, too, with regard to executors. An estate might be worth 100,000*l.*, and the debts upon it might not amount to one farthing. The payment of a legacy to the amount of 1,000*l.* might be deferred for years, if the executor chose to say, "Let me see what the amount of this estate is before I pay to you the bequest of the testator." In so plain a case, which required and admitted of a speedy remedy, the legatee was entirely without relief, unless he thought proper to seek it in that odious dungeon the court of Chancery; from which, when he was once immured in it, he seldom escaped without loss of comfort, fortune, and life (hear). He did not mean to say that people were killed in that court, but that they were subjected in it to a species of living death in the anxiety and mental torture to which its proceedings gave rise, and that they often perished by starvation, owing to the manner in which it expended and deprived them of their scanty means (hear). But to return to the point from which he had digressed. Was it right that this thinking people should, in two such cases as he had just mentioned, be referred for relief, as it was insultingly and mockingly called, to the court of Chancery? These points demanded inquiry; but it was an inquiry that ought to be conducted, he would speak out plainly, not by lawyers either ancient or modern—not by persons either moving in the trammels or enjoying the emolu-

ments of the law, but, if it were to be successful, by persons possessing greater information, greater intelligence, and more philosophy and reasoning, than generally fell to the lot of members of the profession. His observation was intended to apply to the profession generally, and to himself amongst others. Letting that point, however, pass for the present, he would now proceed to another. Before the report of the commission was received by the house, the time would be thought to have arrived for considering the transfer of real property in England—a system disgraceful to the country, and matter of ridicule and disgust to those who understood it, and saw how it was managed (hear, hear). In all ordinary contracts relating to personal property, a man knew what he undertook to buy, and what he undertook to give for it. For instance, if he bought a horse, he saw what he had to receive, and he knew the price he had to pay for it. But if he purchased land, even to the amount of 100,000*l.*, he would undertake to say that not even the *rt. hon. gent. opposite* (Mr. Peel), nor his learned friend who sat near him, no, nor one lawyer in 500—for the chosen few who understood this department of the law were not more than half a dozen—would venture to affirm that they were receiving for their 100,000*l.* the worth of 100,000*l.* or of one farthing. In point of fact, they knew no more upon that point than he did upon the law of China or Hindostan (hear, and a laugh). The law affecting the transfer of real property was reserved for the consideration and profit of a select few, removed from the general practice of the profession, whose ways were past finding out, whose movements were no more to be determined by reason than those of the astrologer, who, to use the language of Hudibras,

— "Deals in destiny's dark counsels  
And sage opinions of the moon sells."

whose principles were no more intelligible than those contained in the *dicta* of the Magi, or in any thing else that was purposely hidden from the understanding of mankind. He repeated, that the people of England, and even 99 lawyers out of 100, were utterly ignorant of the principles on which real property was transferred. Why did he mention that fact? Because it was one of those out of which the Court of Chancery was fed—it was the doubt thrown upon the titles to land that filled its insatiate maw with so many dainty morsels—it led to the filing of those bills for specific performance (to use the slang of the Court of Chancery) which occasioned such delightful pickings for the Chancery lawyers. There was likewise another matter for inquiry, which he thought the house, when he stated it, would consider to be right marvellous, but of which he would merely say—

" 'Tis true, 'tis pity, and pity 'tis 'tis true."

If any gent. had any regard for the credit of the law, what would he think when he heard that if a man died worth only 20*l.* in land, which he disposed of by will, and a doubt arose as to his competency to make such a will, it was a matter of right to the heir to demand a trial of the testator's competency before a jury of the country; whereas if he died worth 100,000*l.* personal property, and a question arose as to his competency to make a will, it was impossible by any exertion of legal skill to get that

question framed into an issue to be tried by the country (cries of no, no, from the ministerial benches)? If he were wrong in that opinion, he had no doubt but that his learned friend the Solicitor-General, would hereafter set him right, and point out the mode by which that issue was to be obtained; and if he (Mr. W.) had any knowledge in the trade of the law (and he did not pretend to much), the fact was decidedly such as he had stated it (hear, hear, from the ministerial benches). He did not exactly know what that cheer meant. Perhaps it meant to say that the commission was already over head and ears in consideration of the point he had suggested. He should be glad to hear that it was so: but he was afraid that that point, as well as some others which he had mentioned, were points of important and essential inquiry, going a little beyond the forms of procedure to which he believed that the labours of the commission were to be more particularly directed. There was another subject which was as worthy of investigation as any of those to which he had before referred; and that was, how soon it might be expedient to remove the jurisdiction of bankruptcy from the Court of Chancery, which had no immediate connexion with it. It would be expedient to enter at the same time upon a revision of all the proceedings in bankruptcy, especially of those which were decided before an appeal was made to the Chancellor. On this point he would beg leave to quote the opinion of a learned gent., who was not accustomed to speak with levity of what he (Mr. W.) called the antiquated errors of the law, but who in a pamphlet which he had recently published, had affirmed that, if all the imaginations in the world had been set at work to devise mischief, it would have been next to impossible for them to have constituted a court more calculated for the end proposed than the bankrupt courts as they existed at present. He submitted that this statement was true to the letter; and his reason for calling the attention of the house to it now was, that when he had first mentioned the subject to the house, it was attempted to drive him from it by unremitting assertions that in the Court of Chancery and every department connected with it all was right; that there was no delay in its proceedings, no complaints against its forms, no extraordinary expenses created by its jurisdiction—in short, that there was nothing in it, either done or said, which was not consistent with the welfare of the people of England. Now that he had an admission from the other side, that every thing was not as it ought to be in the Court of Chancery, he would venture, but with all due deference to the members of the commission now sitting, to suggest, if it were not too late, and they did not think their inquiry to be limited to the mere form of the proceedings in the Court of Chancery—he would venture to suggest to them the propriety of making these necessary and fundamental changes in that court. They might be made with perfect safety, because, if what he alleged against the court were correct, he defied any man, by any alteration, to make it worse (hear, hear). He should now proceed to bring forward the particulars of some cases which had recently been placed in his hand. For the correctness of these cases he did not feel himself responsible, but merely laid them on the table, in the discharge of his duty as

a member of parliament. Not that he thought them open to doubt or controversy; but that he did not like to pledge himself to that, of which he had no personal knowledge. One of the petitions he had to present was entitled to the most respectful consideration, as it came from a gent. of high honour and character. This was the petition of Samuel Palmer, one of the churchwardens of the parish of Newington. The petition stated that in the year 1653 there was granted by the then lord of the manor of Walworth to the overseers and churchwardens of the parish of Newington, a piece of land of which the rents and profits were to be applied to the use of the parish. In the month of August 1820, the trustees of the charity filed a petition in the Court of Chancery, stating that the annual income of the property, which had formerly been small, was now increased to 600*l.* a-year, and praying that it might be referred to the Master to determine in what manner it should hereafter be applied. That petition was heard on the 4th of November 1820, before the Vice-Chancellor. He referred it to the Master. In two years and four months afterwards the master made his report; and by that report he took away the jurisdiction over the rents, and profits from the overseers, and gave it to the trustees. Against that report the petitioners presented a petition to the Lord Chancellor on the 15th of August 1823, and on the 12th of April the trustees presented another petition, praying that the report should stand confirmed. In August 1823, the Master, whom the Chancellor had ordered to review his report, restored the jurisdiction to the overseers. In October a petition was presented by the overseers to the Lord Chancellor, to have that report confirmed. A petition opposing this, was presented by the trustees in November. In August a supplemental bill had been filed by the trustees, so that in November 1823, there were three petitions before the Lord Chancellor respecting this charity, all waiting for his adjudication. And here he begged leave to state, that between that latter period and the present—for the matter unfortunately was still pending—two questions had arisen before the Lord Chancellor, which he had no doubt that his learned friend would tell them required some deliberation, and which, for any thing he knew to the contrary, might really deserve it. The first was, how far the present lords of the manor of Walworth—namely the Dean and Chapter of Canterbury, had a right as visitors to interfere with the charity. This question he ought to state, was suggested on affidavit by the solicitor for the trustees, on his own suggestion, and not at their instance or request. The second question was, how far the overseers of the poor for the parish of Newington, who were now appointed under a local act, were overseers as contemplated by the statute of Elizabeth. The great and eminent lawyers of the Court of Chancery might say that the consideration of these points was wise and necessary; but to the understanding of the petitioner it appeared quite the reverse. He could not understand why forty attendances, when these petitions were in the paper, but when they were not even touched, amounting to 56*l.* 6*s.* 8*d.*, without reckoning the fees of counsel to sustain them, were wise and necessary; he could not understand why 16 attendances at times when the matter was not heard but only mentioned, amounting to 30*l.* 13*s.* 4*d.*, making with the ex-

penes above enumerated, 861 odd, were wise and necessary. He could not quite understand why it was wise and necessary that five years should pass away during which the whole or at least part of the charity was suspended. In that time, out of 40 individuals who benefited by this charity, nine had died, and none had been elected to fill their places. In that time 1001. had been accumulated to the funds of the charity; and the petitioner could not see how it was in theory just, or in practice useful, that this accumulation should be withheld from those for whose benefit it was intended. Indeed, the petitioner could not comprehend the wisdom and necessity of many of the charges in this bill of costs, of which, with their permission, he would read a few items to the house. (Here the learned gentlemen read the following extracts from the bill of costs, which excited great laughter in the house):—

1894. *S. s. d.*

Dec. 6.—Attending Court, three petitions in the paper for judgment, when the Lord Chancellor went partially into the matter, and requested to be furnished with the repealed local act, which he said he would read, and give his judgment to-morrow - - - 2 0 0

7.—Attending Court all day, three petitions in the paper, when his Lordship said, "he had to leave early, but would not fail giving his judgment to-morrow morning" - - - 2 0 0

8.—Attending Court all day, three petitions in the paper for judgment, when the Lord Chancellor adverted to the question of jurisdiction, which he desired to be again spoken to, and requested that the Dean and Chapter of Canterbury, they being the lords of the manor of Walworth, should attend him, and appointed Saturday next for that purpose; and requested to be informed as to the mode of appointing overseers at the time the Charity was founded. 2 0 0

11.—Attending Court all day, three petitions, when the same were called on; and Mr. Shadwell applied, on the part of the Dean and Chapter of Canterbury, to let the petitions stand over, and the same were ordered till the first seal before Hilary Term, to give the Dean and Chapter an opportunity of considering what course they should take - - - 2 0 0

1895.

Jan. 11.—Attending Court on three petitions, when Mr. Shadwell, on the part of the Dean and Chapter, stated he was not prepared to go on; and the Lord Chancellor ordered the same to stand for this day fortnight peremptory - - 2 0 0

25.—Attending Court all day, three petitions on the paper, but same not called on - - - 1 10 0

26.—The like attendance this day - - - 1 10 0

27.—The like attendance this day - - - 1 10 0

28.—The like attendance this day - - - 1 10 0

29.—Attending Court, three petitions in the paper; same called on, and ordered to stand for Tuesday next, for the Dean and Chapter to prove themselves entitled to interfere in this matter as visitors 2 0 0

Feb. 1.—Attending Court all day; three petitions in the paper, but same not called on - - - 1 10 0

4.—Attending court all day; three petitions in the paper, but same not called on - - - 1 10 0

5.—The like attendance in Court this day; three petitions in the paper 1 10 0

9.—The like attendance this day - - - 1 10 0

10.—The like attendance this day - - - 1 10 0

11.—The like attendance this day - - - 1 10 0

23.—Attending Court, when the Lord Chancellor directed the Registrar to put the petitions in the paper for Tuesday next - - - 0 6 8

"This," said Mr. Williams, "is a *discreet notandum*, as it is only 6s. 8d., and neither 2s., nor 11. 10l."

March 1.—Attending Court on three petitions; same in the paper, and called on, when the various points suggested by the Court were again argued at some length, and his Lordship promised to give his judgment this day week - - - 2 0 0

8.—Attending Court; but the Lord Chancellor did not give judgment according to his promise 0 6 8

Although there had been all these attendances on the part of the solicitor, and all these promises on the part of the Lord Chancellor, the matter had not yet been brought to a decision (hear). The next petition which he had to present was that of Mr. Walter Honeywood Yate, who described himself as an individual entitled to

estates in the counties of Worcester, Gloucester, and Hereford, which, however, it was in vain for him to attempt to recover, as he had not the pecuniary means which a man ought to possess before he embarked in the dangerous voyage through the shoals of Chancery. To give the house an idea of the enormous expenses to which it was believed that proceedings in that court necessarily gave rise, he stated that a late respected member of that house, Mr. Ricardo, had left by his will the sum of 50,000*l.* as a nest-egg to provide funds for the defraying of any expenses to which his heirs might be put in the Court of Chancery, in defence of their title to the estates in question, thereby giving his opinion of what he conceived likely to be the result of being drawn by any unfortunate circumstance into that most dreadful and most vexatious of English courts. He would read the last paragraph but one in this petition to the house, because he considered it as worthy of its most deliberate attention. It was as follows:—“Your petitioner humbly submits that the means of addressing that court should be afforded to all subjects of the realm with equal facility, and that in affording such means, the House of Commons will be conferring a great benefit on the subject, which will be more sensibly felt by all classes than the reduction of any impost, or the repeal of any tax.” The next petition which he had to present, was a petition from a person of the name of Gower, who, he believed, was connected with the family of the Marquis of Stafford. The petitioner stated, that he had been left by the late Duke of Queensberry an annuity of 300*l.* a year; and declared that there was a provision in his grace's will requiring the trustees to invest, immediately after his death, as much stock in the 3 per cent. consolidated annuities as would secure to the petitioner such an annuity. Shortly after the Duke's decease, his property was thrown into Chancery by the executors of his will—a measure of which the petitioner did not complain, though he did of the delays of the Court of Chancery. This was in 1810. For seven years, though there were avowedly large funds in the court belonging to the estate, the petitioner did not receive one farthing of his annuity (cries of no, from the ministerial benches). He believed the fact to be so—at any rate, such was the assertion of the petitioner. At the end of those seven years the petitioner received one-fourth part of the arrears due to him. Three years had since elapsed, but the petitioner had received nothing more; so that there were now arrears to the amount of 1,386*l.* due to him, though the funds belonging to the estate were ample and almost inexhaustible. The petitioner calculated the loss he had suffered by the non-payment of these arrears at simple interest at 1100*l.*, and at compound interest at 1400*l.* He further calculated, that if the money, as it had accumulated, had been purchased into the funds, it would at this time have made a difference to him of 2,800*l.* To compensate him for this damage, he had the satisfaction of being told that every thing was done according to the ordinary rules of equity (hear). That might be very fine satisfaction for the hon. gentls. opposite, but it was very cold comfort to this petitioner. He therefore thought his case worthy of the notice of the house, and recommended it to their consideration, with this piece of information—that many

assaults under the Duke of Queensberry's will had been compelled to hide their heads in workhouses, in consequence of the non-payment of their annuities, for which there were funds enough in the Court of Chancery, had they not been locked up by the proceedings instituted in it. The next petition which he had to present came from an individual who had applied to him with almost as much importunity as he had used towards the *rt. hon. gent. opposite*—he meant Mr. Gourlay. The petitioner stated that he had presented two petitions before, to which the house had paid little attention. He dated the origin of his ruin from the day in which he was forced to enter into the Court of Chancery. He detailed some of the struggles in which he had been engaged in it, stated that he had recently been victorious in two issues, but added, that his victories, like those of Pyrrhus, had almost been as fatal to him as defeats. He declared that the benefit of them had been nothing, and that retreat from the contest appeared to him now to be the only good he could obtain. He prayed the house to assist him in that object. He said he had a manual of his own case in readiness, and that he wished the house would afford him aid to print it. The next petition which he had to present was from an individual of the name of Joseph Bancroft, who was now confined in the Fleet-prison, under an attachment from the Court of Chancery. This individual stated himself to be more than 71 years of age, and that he had been committed for not answering certain interrogatories. He had now been in confinement two years and five months. The petition stated, that before his committal, he was living at a village near Lincoln; that he was utterly ignorant of the nature of law proceedings; and that he had trusted every thing relating to this suit to his friend Brown, and to the solicitor whom he had employed. It then proceeded to say, that certain interrogatories were filed; that an answer to them was not put in in time; and that the consequence was that he had been committed, not to the county gaol at Lincoln, but to the Fleet-prison in London, by a special messenger, at an expense of no less than 50*l.* Until those costs were paid, the contempt of the petitioner could not be cleared, and he himself could not be heard in court. For more than a year and a half, immediately subsequent to his committal to the Fleet, he was entirely bereft of his intellects; that in that interval his friend Brown died, and that he must have died too from want, had it not been from the kindness of the Warden of the Fleet prison, and the humanity of one of his fellow-prisoners. The petitioner further stated, that he had no means whereby to defray the expenses which had been incurred in the execution of the attachment against him, though he had now put in his answer to the interrogatories. He remained in the Fleet prison at this moment, and there, he said, he must remain till the end of his life, if the house did not exercise its humane and necessary interference in his behalf. He asserted that many individuals in that prison were similarly situated, and that the course of the Court of Chancery was, not to inquire why no answer had been put in, but to proceed to imprison the offender, no matter whether his offence proceeded from ignorance and inadvertency, or from deliberate obstinacy. The only remaining case which he had to state was that of Tambridge school; The case was

Known in the profession as "*The Attorney-General v. the Skinners' Company*;" and the object of it was to recover an estate for the school, worth from 4,000l. to 5,000l. a year. In the year 1820, the case was heard before his Honour, the Vice-Chancellor, and was promptly decided. There was an appeal, as there always would be where there was money to support it, from the decision of the Vice-Chancellor to that of the Lord Chancellor; and that appeal, after standing for just one year and eight months before his lordship, at last came on for hearing. It was heard, and the Lord Chancellor confirmed the decision of the court below, on the correctness of which he understood it was impossible to harbour a single doubt. In 1821, on another petition, the decision was the same way. The case then went into the Master's office, and there it remained two years. Death then took off the Master, and the case then went to another, who succeeded him. He had exerted himself no doubt to the utmost; but in spite of all his exertions, the matter was in Chancery still. It was now in the seventh year of its age, and how much older it might grow was a point he would not pretend to determine. The income in dispute he had before told them was between 4,000l. and 5,000l. a-year; and all parties had agreed that it should be applied in increasing the amount of exhibitions belonging to the school. One generation of boys had been defrauded of, or if that were too strong a word, had lost the benefit of these exhibitions; and another generation of boys was likely to have the same loss to submit to, for the Court of Chancery unfortunately laid fast hold of all the funds in dispute. Let the Vice-Chancellor decide promptly—nay, let the Lord Chancellor do the same; let there be doubt upon the question or no doubt, if property were involved, the Court of Chancery fixed its fangs into it; if there were money, it fattened upon it; if there were life, it fed upon it (hear). The evil was not of modern creation; it existed 150 years ago, as Butler bore testimony in *Hudibras*. For the knight, after he had tried every means to win the widow, direct and indirect,—and direct means were always the best to be pursued in such cases—after he had assailed her with all the artillery of sighs and glances,—after he had attempted to draw her into an epistolary correspondence, and had tried, but in vain, many other amatory proceedings, received the advice of his squire to write her "a love-letter in Chancery," which, he stated,

"Would bring her o'er to be his wife,  
Or make her weary of her life" (a laugh).

He would undertake to say that the widow would have consented to take in the knight, the squire, "the camp, the pioneers, and all," rather than take in that bill of Chancery, which was as great a nuisance 150 years ago as it was at present (a laugh). Relief was to be obtained through the House of Commons, and through no other quarter (hear). Of the commission now sitting he would say nothing; into Chancery it had been cast and thrown, and he anticipated that at no distant time, the house would receive a suppliant petition from the members of it, praying to be delivered from the irrelievable court into which they had been cast by the manoeuvre of the *rt. hon. secretary*. He expected no good from the sitting of that commission; in that house, and in that house alone,

could the recovery of the Court of Chancery be effected from the diseases which beset it. A committee of that house or nobody must be the surgeon to accomplish the cure. It was in vain to tell him of lawyers reforming themselves (hear)—of courts of justice sitting upon their own abuses, and flogging themselves out of their jurisdictions and their fees as *Sancho Panza* flogged himself out of his vices and peccadillos (hear). Whatever might be thought or said within the walls of parliament, the people of England knew full well that from such proceedings no amelioration of the system could be rationally expected. It was therefore incumbent on the house—for the time was now come—to take some decisive step. The *rt. hon. secretary* opposite, had got rid of 400 statutes at one blow in his attempt to amend the system of juries. He trusted he would follow up the blow and give effective support to reformation in other quarters. There was one splendid act which bore the date of the reign of James I., and which required that that house should annually resolve itself into a committee for the consideration of matters of justice. The forms of this committee still remained; no great general benefit had accrued of late times from its application. Some specific and crying grievance, it was true, had occupied attention—some partial ameliorations had been attempted—some patch of purple, or black had been applied—"Purpureus late qui splendet unus et alter—Assuitur pannus"—but no great leading reformation had been effected. The subject had never been considered as a whole—never looked upon with an enlarged and comprehensive eye, and therefore the microscopic glances which were occasionally taken at it, had only served to render confusion worse confounded, to bring the general system from bad to worse, and make it what it was—a disgrace to the country (hear, hear). What else but a disgrace was it, to be behind a neighbouring country, in so valuable an institution as that of law, and in such essential requisites as the expedition and cheapness of its administration? And yet this was the condition of England at this time as compared with France. When he deplored on the part of his own country this imperfect condition of her laws, he did not venture upon any thing so foolish as to propose any remedy; but whether the reformation were practicable or not, it was due to the people of England that the attempt should be made (hear, hear). The enlightened feelings of the nation were at variance with the existing system of the Court of Chancery: it put men to the blush, and stopped the channel of justice. At Athens, officers of knowledge and reputation were annually appointed, whose sole business it was to consider what reformation the alteration of circumstances and times required: they were bound to consider what had grown useless, what had grown foolish in the Athenian code, to report upon it, and to move for its repeal. Where had this country so excellent and useful a mode of revision, to chasten the prurency which the lapse of time had occasioned in its laws? They had, indeed, in its full operation, the machinery of legislation, which added largely to the already encumbering bulk of their code, giving enough to its dimensions, but nothing to its utility (hear, hear). It had been a long established maxim, that every thing which was worthy of being attended to was difficult to be obtained; but they had instances enough in other countries of sim-



his attempts being made with success in reforming old and bad institutions. The King of Bavaria had introduced an improved penal code into his dominions. They need not look, indeed, beyond the neighbouring country of France, to see the beneficial results which attended a revision of the old law: there indeed it was effected by a usurper, a man of great and singular qualities, and of great and singular fortunes—a soldier, but one, who while engaged, it could not be said absorbed, in these military achievements, had left behind him a code of law, which would eternize his fame, and form a monument to his greatness that would last, and be remembered with gratitude, when the history of his wars and the vices of his military ambition would have long passed away (hear, hear). What a great neighbouring country had so well done, might surely be tried in this. A professional gentleman had lately published a book upon the crying grievance of this Court of Chancery, in which, after quoting the Chancellor D'Aguesseau's opinion of what ought to be the constitution of a court of equity, he adverted to what that court had practically become in this country, and said, "Lord Eldon had not thought fit to follow these directions throughout the length of his reign, and had, unfortunately for the people, and for his own reputation, taken a different course." (The learned gentleman then continued to refer to Mr. Miller's book, from which he extracted, among others, the following passage concerning the Lord Chancellor:) "Perhaps he thought that the surest way to keep his place was to refrain from innovation, and this was the course he has invariably pursued since he held the office: that he will continue to do so, is not to be doubted, when we consider how difficult it is to change the habits of a man of 75 years of age. But this is a reason why an ancient person ought not to be continued in such an office. It is probable he has no conception of the sense generally entertained of his judicial career. It is one of the misfortunes of his life, that he has made mediocrity and submissiveness the pass-ports to his favour (hear, hear). He is a grievous hindrance to the improvement of the law as a science: he has always ridiculed and resisted all fair improvements; nevertheless they are advancing; and if he remain, he will at length find himself carried away by the current" (hear). Had not these opinions been thus publicly promulgated by this author, he (Mr. W.) should not himself have proclaimed them; but when he found them thus submitted to public consideration, and that, too, at the moment he was calling public attention to the Court of Chancery, he felt himself warranted in quoting them (hear). Before he sat down, he begged to make this appeal to the character and to the sense of public duty of the House of Commons. They knew the enlightened state of public opinion, and that the country looked to them for a redress of grievances; he called upon them not to act upon the opinions of lawyers, who were under the influence of narrow professional views; but in a manner conformable to the march of public intelligence, and the glorious progress of arts and sciences: these were the signs to which they must attend, an indifference to which would convey severe censure upon those who permitted any longer the existence of a system which was as much at variance with the intelligence and information, as it was

with the happiness and justice of the country (cheers).

Mr. John Smith, without intending to cast the slightest reflection upon the Lord Chancellor as an individual, wished to state his opinion of the grievances which the people of this country, especially those engaged in commerce, laboured under, from the operation of the existing administration of justice in the Court of Chancery. The system was looked upon with terror by men of business: it was not an uncommon practice for a dishonest debtor to threaten to file a bill, which would terrify the creditor into suffering the greatest impositions (hear, hear). He could state a fact in illustration of this, which had happened in his own affairs. He had lent a sum of 4500*l.* to an individual, on the bond of a most respectable surety. The bond fell due 18 months after this loan, and when application was made to the surety for payment, the answer was, "True, I signed this bond, but I do not now owe the obligor so much; I have since had other transactions in money matters with him, and now only owe him 4000*l.* instead of 4500*l.*, and that is all which I shall pay." Thinking this answer very extraordinary, he (Mr. Smith) took the bond to his solicitor, and stated the circumstances; when he was informed, as he had expected, that the subsequent pecuniary affairs between the surety and obligor, had nothing to do with the original obligation of the bond as affecting the obligee who had advanced the money; and his solicitor offered to serve the surety with a notice of action for the recovery of the debt, but he added, "Just as your claim is, this man can apply to the Court of Chancery for an injunction to restrain you from proceeding at law; and though he must ultimately be defeated with costs, still my costs, that will ultimately fall upon you in the progress of this litigation, will probably amount to more than the 500*l.* at issue" (hear). Startled at this prospect, he accepted the 4,000*l.* and put an end to the matter (hear). In another case, he had acted as one of the assignees of a bankrupt; a defendant had converted a matter of business into a suit in Chancery; and that suit had lasted for 23 years (hear, hear). When he named the period of its duration, he meant not to cast any blame in the particular instance upon the Lord Chancellor, for he believed no judge would have been competent to have settled so voluminous a mass of accounts. Ashamed of this delay, and happening to meet his hon. friend Mr. Baring, who was a creditor upon the estate, they consulted what had better be done to relieve the parties from their existing difficulties. His hon. friend then sat down to unravel the accounts, and in three hours put into order that which the Court of Chancery had failed to do in 23 years (hear, hear), and assisted in terminating the litigation. He suspected that there was something inherently wrong in the whole form and nature of the Court of Chancery. The system, he was persuaded, was in itself erroneous (hear, hear). Let any man who had ever read a bill in Chancery—the bill in the case to which he had alluded was as bulky as the table before him (alluding to the large table on the floor of the house)—let any man who had ever read such a bill, say whether he could understand its import? It abounded in words, but they were words without corresponding ideas—the whole bill was constructed in a language used two centuries ago. Ought

this form to be continued? But, independently of its incompatibility with common sense and justice, he objected to the system, on account of the enormous power which it vested in the hands of the lawyers. In a facetious periodical work, called "The Covent-garden Journal," published by Fielding, he said, "It is erroneous and foolish to think that the English government is only composed of three estates, meaning those of the King, the Lords, and Commons; there is a fourth estate—the mob" (a laugh). It was true, as the writer had put it, that the mob had considerable power at the time when he wrote; but a great change had since taken place; the mob were dispossessed of their power, and supplanted by a different class. He (Mr. S.) would, in defining the government, describe it to have four estates—the King, Lords, Commons, and the Lawyers (hear, and a laugh). The lawyers were legislators—they made new laws, and their *dicks* had the force of enactments. When his learned friend (Mr. Williams) had touched upon the reformation of the French law—when he had alluded to the genius of Bonaparte, whose code of law he had truly said would serve the memory of his conquests and his crimes, he had omitted to praise it for one of its most essentially useful qualities. That law, if not so purely administered as the British, was at least more readily afforded to the suitor, and twenty times cheaper (hear). This forced upon their attention the comparative demerits of their own system, and it was a case in which every individual in the land owed it to his country to state what he felt and knew upon the subject (hear, hear). When he said thus much, he repeated that he meant not to disparage the Lord Chancellor. He knew that learned lord laboured harder in his office than any other judge: he believed he devoted much more of his time to business, and much less to pleasure, than any other man; but he equally believed that his whole system was bad, and required entire revision (hear, hear); a revision, too, which he did not expect from the commission which had the business in hand, for he knew that the members of it were unable to do what was essentially necessary for a beneficial change, namely, to turn the system itself upside down: to that they must come, before they could accomplish the reformation which was called for (hear, hear).

Mr. *Ellice* had been long aware of the grievances attending the system of business in the Court of Chancery; and bad as those cases were which had just been brought to light by his learned friend (Mr. Williams), he believed they were trivial in comparison of those which could be brought forward by many individuals connected with the trade and industry of the country. He was also convinced, that no good could arise from the labours of the commission appointed to inquire into the affairs of the Court of Chancery: besides having persons of legal knowledge, it ought to have had the assistance of men of business. Why did not the Court of Chancery, in matters of accounts, adopt the practice of the Civil Court? There such matters were referred to the registrar, assisted by mercantile men (hear), who sat continuously until they made their report. If an improvement could be made in the administration of the affairs of the Court of Chancery, it ought to be made quickly and efficiently; and he begged to direct their attention to one point of

practice which he knew to be attended with very injurious consequences—he alluded to the investing money in Chancery: it was a hopeless task to manage the money of others when it became once deposited there. He had represented the grievance of such a case some time ago to one or two of his Majesty's ministers, and the monstrous inconvenience and loss which it imposed upon the guardians of minors. He could more particularly speak of one case, in which he was himself, for his own security, obliged to lodge the money of children, the eldest of whom was only eleven years of age, in the Accountant-General's office. There was the evil—the party lodging money in the Court of Chancery, had no option; it must be invested in the three per cent. stock, at 94 or 95—so that it was not impossible, before the eldest child became of age, the stock would fall to 50 (hear). Above 30 or 35 millions of property were sunk in that disadvantageous manner—an amount nearly equalling the whole floating debt of the country. Why not allow the minors the benefit of investing the money so as to obtain a sort of exchequer-bill interest? In a case in which he was personally concerned, it had been required of him to make an affidavit for the satisfaction of the court. His affidavit was deemed inadmissible, and his succeeding attempts were equally abortive. His solicitor then tried, and after him, his counsel; but their efforts were equally unavailing. The point was of little importance, but after the court had refused to admit five successive affidavits, it at last accepted and was satisfied with that which was first made. The property in dispute was about 1,500*l.*, and the expenses of litigation amounted to between 300*l.* and 400*l.* A good deal had been said of the Lord Chancellor, but he thought it not right to throw the odium of this branch of the judicial system upon the individual Judge. Let the *rt. hon. gent. opposite* (Mr. Peel) follow up what he had already done, in reforming abuses in the administration of justice (hear, hear). The blame ought not to be cast upon a single individual, who, if he had the disposition, had not the power to remedy them (hear).

The *Solicitor-General* said, that before he noticed the observations of his learned friend (Mr. Williams), respecting the constitution of the Court of Chancery, he would advert a little to the five petitions upon which he had chiefly founded his speech. His learned friend had, properly enough, abstained from vouching for the accuracy of the statements in those petitions; and, indeed, it would have disparaged his understanding, had he done otherwise. Mr. Palmer's petition came first in order, and related to some alleged abuse in what was called "the Elephant and Castle charity." In the Elephant and Castle charity, the Dean and Chapter of Canterbury had formerly possessed the property, and they still held the right of visitation; being, in fact, according to the settlement at the Reformation, entitled to a reversion of the property. Their claim, however, could not so easily be brought into consideration, because the affairs of the Dean and Chapter must undergo discussion in the Diocesan Court in the first instance. The consequence was, that the cause was only ripe for judgment in January last. But this was not all. The convenience of counsel, as in every other court, was consulted in this; and many of the delays of hear-

ing must be set to the account of their accommodation, which was equally called for by the courtesy of the judge and the interest of the suitors generally. It was not very surprising that, under these complicated accidents and causes of delay, 50l. should have been laid out in the expenses of the hearing. The next petition was that of Mr. Honeywood Yate, who by his absurd and preposterous suggestions, would have the House to believe, that the late enlightened Mr. Ricardo had left 50,000l. upon some contingency of litigation; but if it were so, that circumstance would furnish no reason for inferring that the expense of a Chancery suit would be 50,000l. The fact was, that at the time that Mr. Ricardo made the purchase of his Gloucestershire estate, the title was disputed by this Mr. H. Yate, and it was to defend the estate from that particular claim that Mr. Ricardo set apart the 50,000l. But if there were any justice in the claim, Mr. Yate might sue *in forma pauperis*. The third petition from Mr. Gower was more preposterous than the others. He was an annuitant upon the estate of the Duke of Queensberry along with other creditors, whose united claims amounted to 400,000l. The Duke of Buccleuch obtained judgments in the Scotch courts against the estate for 100,000l., the amount of fines improperly levied. In the common course of proceeding the creditors could have had no claim to a settlement until the final decision of the appeals in that which was well known by the name of the Queensberry cause. An accidental rise in the funded portion of the property took place, and the Lord Chancellor finding that he had it in his power to do something for the creditors, and yet leave enough to answer the suit of the Duke of Buccleuch, and make compensation to the tenants, went out of his way to do them this service, and ordered a dividend of one half to be paid them. The next petition was from Mr. Gourlay, who was a tradesman. Mr. Kestrotte had refused to put in an answer to a bill, and for that contempt of Court had incurred the expense of an attachment. He probably would wish to have a Court of Chancery that could not imprison delinquents. Such were the petitions which his learned friend had thought proper to present. Mr. Gourlay had no objection to a Court of Chancery which would decide quickly, however erroneously. Mr. Gower wanted a Court of Chancery which would pay him his debt out of other money than that which belonged to his debtor. Mr. H. Yate wanted a Court of Chancery which would allow him to defer his claim to an estate till twenty years after the decease of the purchaser. Mr. Palmer wanted a Court of Chancery which would allow him to proceed on to judgment upon any petition however crude, irregular, or informal. The learned gent. had intimated something of the plan of his attack on the Court of Chancery, whenever his day should come, by the assertions which he had made of a usurpation effected by this court over the powers of the other jurisdictions. This was at variance with the fact, as might be proved from the circumstance, that from the time of the dispute between Lords Coke and Bacon respecting the remanding of a cause into Chancery, after verdict in the Court of King's Bench, no question of jurisdiction had arisen down to this time. The Court of Chancery had from time of human memory,

exercised the same jurisdiction which it possessed now. The learned gent. must have forgotten his historical reading, when he said that no such jurisdiction had ever been known in any civilized country. In the constitution of republican Rome at the brightest period of her history, the Pretorian Court held a controlling and corrective power over the judgments of common law. The Court of Session in Scotland acted as a Court of Equity in those cases of unperformed contracts, which could not be brought within the proper cognizance of the common law, just as Chancery enforced specific performances and execution of contracts. In fact, the distinction of law and equity had always prevailed in civilized states. He contended that this was not the proper time to take the evils of the jurisdiction, whatever they might be, under their consideration, while they were without any information from the commissioners who were appointed to inquire into it.

Dr. Eusington, with a view to justify the delay in the report of the commissioners, said they were almost all men engaged in the duties of judicial situations, or the practice of their various courts. Few were the days which any of them had free from avocations, and fewer those upon which they could collect a full meeting. The Vice Chancellor, upon whom they had entirely depended, had been withheld from co-operation by long and severe illness. Another highly intelligent person had declined acting. He was himself most anxious for the fulfilment of the duty which had been imposed upon him, though he feared that the undertaking was beyond his powers. He was anxious, too, that the House should not be led to expect more from the commission than the persons delegated were able to effect. Those powers were very limited. Their inquiry into the practice did not allow them to consider the law of that court. It only went to a review of the forms of proceeding from the first commencement to the final issue. The other branch of their inquiry was only directed to ascertain whether some of the functions of this jurisdiction might not safely be separated from it, and given to the other courts. Had the commission directed an inquiry into the whole system of Chancery, he must have hesitated much before undertaking a task so greatly above his ability. He did not mean to say that it was actually impossible, or that it was not desirable to reform the system; but this commission could not effect it. He could have no doubt that much beneficial alteration might be effected in many branches of the law of England. It was not possible, for example, at present for the Court of Chancery to order a trial by jury to determine whether a settlement of personal property by will was made by a person of sound mind, though it had the power of doing it with questions of real property. It would be desirable to pass an act to give the Court of Chancery that power with which it was not now invested by law. He had had very considerable experience in the affairs of wills, and, though it would be seriously against his own interests, he must say, that such a regulation would benefit the country at large, and lighten the business of the courts. Very considerable abuses were manifest in the law which regulated the transfer of real property. He could not allow that there was any rational ground for a system, which

required, in making out the abstract of a title, eight hundred brief sheets, prepared, as he knew the fact to be, by one of the most honest solicitors in London. This gentleman had found it impossible, with safety to his client, to compress the abstract of a title to an estate in less than eight hundred sheets. He wondered that the country gentlemen had not given their attention to this subject. If they considered what an enormous tax it levied, in the course of years, upon their property—the expense of stamps alone which it brought with it—and the dangerous intricacies which rendered their possessions wholly insecure, they would not remain satisfied. He knew of no reason sufficient to justify its continuance. A system of laws contrived, when the personal property of the kingdom was not one-five-hundredth of the real property, and when all property passed by rude conveyance, almost from hand to hand, could never be suitable to a period when commercial wealth and its transactions so infinitely transcended the value of all the real property in the kingdom. How, then, were they to proceed in this matter? He had always thought that a commission, such as was here called for, ought to consist of persons selected from a variety of the professions and classes of society, so that it should possess a combination of the talent and learning of the lawyer, the enlarged and enlightened views of the statesman, and of all the practical knowledge and acquirements of the merchant (hear). Such a combination as this should be concentrated, and brought to bear as much as possible on the great object of framing such a system of laws as might enable the subjects of Great Britain to obtain—what at present they could not obtain—justice cheaply and expeditiously (cheers). It was not his intention on this occasion to enter into any examination of what had passed heretofore in any of our courts of justice; much less did he mean to go into any examination of the faults of those who had presided in those courts. His object as a lawyer and a member of parliament was to find out where the evil existed, and to attempt to discover and apply a remedy for it, rather than to fix the blame on particular individuals (hear).

Mr. M. A. Taylor said, it was now long since he had first attempted to prove that the defects in the system of the Court of Chancery, and the appellate jurisdiction of the House of Lords, amounted to a denial, and indeed a complete subversion of justice. The reports of the committee appointed to inquire into the nature of those evils stated, that so rapidly were causes accumulating at that time in the jurisdiction in question, that it was judged they could not be disposed of in less than 25 years. This was stated in both Houses of Parliament, and was not contradicted in the House of Lords. The public had been seriously aggrieved by the proceedings in the Court of Chancery; and this he would say, notwithstanding that he had the honour of being personally acquainted with the Lord Chancellor, and believed him to be one of the most upright and honourable minded men in the country (hear). With regard to the appellate jurisdiction, he (Mr. T.) had proposed some years ago to provide assistance in the House of Lords, either by an additional number of Lords for the determination of appeals, or by the appointment of an additional judge in that jurisdiction. After a twelve years' hard

struggle, Lord Gifford had been at last appointed to preside with the Lord Chancellor at the hearing of appeals (hear, hear). The effect of this arrangement had been, that the lords had reduced the number of appeals in an astonishing degree, and were proceeding with them in a manner that reflected upon them the highest credit (hear, hear). Why should not some beneficial arrangement of a similar nature be adopted in the equity jurisdiction? He was not the individual who moved the question in respect of these delays in Chancery; but had he been present on that occasion, he would not have consented to such a commission as was then named. For who was nominated at the head of it (hear, hear)? The very individual whose conduct was complained of as tending to encourage those delays (hear). The fact was, that as it existed at present, this chancery jurisdiction was perfectly detested throughout the country (hear); and in an age like this, such cumbersome forms of proceeding could not much longer be endured. By and by there would be that acceleration effected in the business of chancery, that he would scarcely despair of seeing a steam practice introduced (laughter). He knew an amicable suit which had been before the court 33 years (hear, hear). It was admitted by the best and most experienced practitioners, that under some circumstances, to recover a property of 3000*l.* out of Chancery, would not cost less than 1500*l.* (hear, hear). What was such monstrous injustice as this owing to? To the immoderate amount of fees accruing and accumulating upon such long delays (hear.) He could scarcely imagine why it was that the Solicitor-General should quarrel so much with that case of Mr. Palmer, which had been mentioned before that evening. Mr. Palmer's case had been depending or hanging up three whole years.

The Solicitor-General begged pardon; two years only.

Mr. M. A. Taylor—Only two years (a laugh). Then on the learned gent.'s own admission, it was another case to prove the hardships that were produced by this fatally constituted court. The Fleet and other prisons of the metropolis, which he (Mr. T.) had visited, contained numerous victims, without clothes, and almost in a state of despondency, who would not have been in those melancholy abodes, and in so wretched a condition, but for the injuries which they had suffered through the Court of Chancery (hear). Perhaps the house was already aware of that affecting case of the two widow ladies, who were interested in a property, which an attorney managed to hang up in Chancery. Pending the proceedings one of the ladies died at the age of 81, nine years after she became invested with the right to a beneficial interest in that property. Her sister, too, survived her only by about half a year (hear, hear). With respect to the inefficiency of the commission he alluded to, and the causes assigned for the long delay of its report, he would only say, that if some of the members were incapacitated from attending it by reason of professional or other engagements, they ought never to have been placed upon it. Without some vigorous struggle on the part of the house, no good would be done in the business (hear).

Mr. Peel would not have said a word upon the question but for the direct allusions which had been made to him. The learned gent. had

insinuated that he (Mr. P.) wished to impede or defeat the objects of an inquiry into the delays of Chancery. He denied any such imputation (hear); he wished for a full and open inquiry into the whole practice of the Court of Chancery. He denied that any inference to the contrary could be drawn from the manner in which the commission of last session had been constituted. Government had good reason to adopt that sort of constitution, from the success with which the Commission of Inquiry into the Judicature of Scotland had been attended (hear, hear). It was but the preceding evening that he had heard that commission very highly enlarged in that house, and yet it was composed entirely of lawyers—the very men whom the learned gent. thought to be the most unfit to be admitted upon committees of that kind, but who were in such commission associated with judges, as the best qualified to report on the condition of their own judicature. He had a much higher opinion of the conscientiousness and integrity of lawyers than the learned gent. opposite, who ought to know them so much better, seemed to give them credit for (a laugh). An hon. gent. had argued that a Mastery in Chancery was disabled from conducting any inquiry into matters of accounts because he was not an accountant. It was very odd, on the same evening, to hear it contended by the learned member that a man was disabled from inquiring into questions of legal proceedings because he was a lawyer (hear, hear). What possible object could he (Mr. P.) be supposed to have, if not a full and candid examination of this subject? He owned that he had hoped ere this, that the report of the commissioners would have been made (hear). He thought, too, it would have been much better had they determined to report in the first place on some specific branch of their inquiries, instead of waiting to prepare their general report upon the whole of the topics embraced by the commissioners, because it was evident that any such general report on the Court of Chancery, must of necessity be postponed for a considerable time. When he considered that these commissioners had already sat 70 days (hear); had examined 45 witnesses; and had rejected no witness who came forward voluntarily to tender his evidence or to furnish information; when he reflected that they had their own avocations also to attend to, and knew that it was their intention to publish the whole of the evidence taken before them, and not merely their general report upon it; what object could he have in view but a full and perfect examination? But what were the names which he found in this commission? There was the noble and learned lord at the head of his Majesty's law officers: could any thing like a toleration of unfairness or disingenuousness be dreaded from him? If the guarantee of his noble friend's integrity and character were insufficient to ensure the public confidence in this commission, would it not be confirmed even by the names of others who were his colleagues? Was there not the learned member for Ilchester (Dr. Lushington), whose speech of that evening had so well attested the manly independence of a mind that would not suffer any thing like evasion, or a want of faith, in any such inquiry as that which was the object of the commission (hear). The terms of the reference had been complained of as too much li-

mitting the powers of the commission. But they were as comprehensive as those of the learned gent., "Inquiry into the delays and expenses of the Court of Chancery, and the causes thereof." The object of the commission of last session was thus stated, "Inquiry into the forms and process of a suit, from its first institution to its close." These terms surely opened every detail connected with the system of Chancery proceedings and the Chancery Court (hear). The reference then proceeded—"and whether any part of the present jurisdiction of the court can be removed" (hear). With respect to what had been said about the present defective state of the law as to the transfer of landed property, had he (Mr. P.) referred any such extensive subject to that commission to report on, besides its more immediate inquiries, would he not have rendered himself liable to the charge of purposely doing so, with the view of withdrawing and diverting the commission's attention from the great objects of its labours? If, indeed, that law could be altered, let it be altered; for it was due to the increasing wealth, and to the commerce, and to the property of the country, that a law regulating the transfer of real property should be left in no state of uncertainty or defectiveness. So much in answer to the objections touching the constitution of the commission. But when the learned gent. quoted *Hudibras*, to show that 150 years ago the same delays were charged against the Court of Chancery as now, it should appear that 13 months was no unreasonable period for the preparation of a report upon the nature and effect of those delays.

Mr. Hume referred to a passage in Mr. Miller's book on the abuses of Chancery. That author stated that it was in vain to hope for any reform or improvement in the system, so long as the power and patronage of a vast number of offices, such as the six clerks, master, curators, &c. remained in the hands of the Lord Chancellor, who thus disposed of numerous posts, some of them mere sinecures, the united salaries of which amounted to not less than between £200,000. and 300,000. a-year (hear). The learned lord had appointed a near relation of his own to no less than six situations.

Mr. Brougham did not expect any satisfaction, from the partial report of the commission appointed to inquire into the state of chancery practice, of which report the learned gentleman (the Solicitor-General) had, he believed, given the exact description it would deserve, when he said he expected that it would be very unsatisfactory to all parties (hear). The powers of countenance possessed by the learned gentleman were very great, as were those of every gentleman who practised in Chancery; but he was quite convinced that the learned gentleman would find it impossible to retain the gravity of his features, if he declared that he expected the Chancery Commission to effect much benefit (hear). It was wrested from government by the force of public opinion, and by the expression of it which had been heard within those walls; but the objects which those who called for it had in view were entirely frustrated. The learned gentleman, in speaking of the Catholic relief bill, had said with regard to one of its provisions—that which was intended to control the correspondence of the Catholic clergy with the see of Rome,—“Was ever any thing so absurd! a popish

beard to examine the despatches of the Pope! This is just as absurd, as if a charge having been advanced against the Chancellor of the Exchequer,"—by the way, it is strange that the learned gentleman should have stumbled on a Chancellor (a laugh).—"he were to request that a commission should be appointed, under the great seal, or under the seal of the Exchequer more properly, to look into his proceedings; that commission to consist of the secretary for the Home Department, the secretary for the Foreign Department, and so forth, those individuals being his colleagues in office. What would be thought of the Chancellor of the Exchequer if he acted thus?" Undoubtedly, such a proceeding would be very absurd, and very unsatisfactory; it would be a monstrous proposition—a great mockery. But certainly not so monstrous a proceeding, not so gross a mockery, as if they put the Chancellor of the Exchequer himself at the head of the commission (hear, hear). And yet the commission he was now speaking of was exactly of that sort (hear). That commission was appointed to inquire into the practice of the Court of Chancery, and the abuses thereof, and whether those abuses were owing to the system itself or to the conduct of John, Lord Eldon, the individual at the head of the court. And who was to decide? Who was called on to control these abuses, and to carry into effect the wishes of the legislature? Why, John, Lord Eldon. Most truly, no man knew better than he where the fault lay, if he wished to speak; but when he and the commission, of which he was the head, remained silent an entire year, to say that he entertained any hopes from their proceedings, would be to treat the House of Commons with a degree of levity at variance with the gravity they deserved (cheers). He (Mr. B.) expected nothing—absolutely nothing—he had got all he expected; he could not have got less (a laugh). Something has been said of the Scotch Commission; but that was widely different from this; for there were men coming from another country, free from local prejudices—men, too, under the control of a most superior man; above all, a man like Lord Eldon (hear); for although he (Mr. B.) conceived him to be a very bad man to correct the abuses in his own court, yet, if he wanted a persevering investigator into the faults of others—a rigid inquisitor (loud cheers)—he would do the talents of the learned lord the justice to say, that he did not know a person more eminently qualified for the office both as a subtle lawyer and an acute man (loud cheers). If he were a judge in any other court but his own (there he might shelter him (Mr. B.) with his protection,) but were he a judge in any other court in England, Ireland, or Scotland, he couldn't name the man by whom he should less like to be scrutinized (hear, hear). No man living would be less disposed to spare the faults of others, or more firmly determined to deal out even-handed justice towards the lapses of other institutions, but he was not the man to reform the abuses of his own court (cheers). In the olden time, there was a certain Pope at Rome, who requested the cardinals to judge him for certain offences, which he confessed he had committed: delays of justice (a laugh). The cardinals exclaimed they judge him, because he was the head of the court, but added, *Judica leprum*: in his mind, he exclaimed, "*Ju-*

*dica me crumet*." The sentence was executed; for history informs us, that "*Judicatus fuit, crumatus fuit, et sanctus fuit*" (much laughter). Now, he, (Mr. B.) much doubted, whether the learned lord would not have certain conscientious scruples against following the example of a Pope of Rome (a laugh). Nothing but the hope of a subsequent sanctification, could prevail upon him to adopt the precedent; and even with this flattering prospect before his eyes, his interest in the estate for life being superior to his love of country, and the purification of his own soul, might not induce him to sacrifice the possession (much cheering and laughter).

Mr. J. Williams in reply referred to Blackstone, to prove that the ancient law-writers did not allow that extent to the Court of Chancery which was now contended for. He objected strongly to the two jurisdictions possessed by the Court of Chancery; and concluded by observing, that if he had thought proper, he could have brought forward much stronger cases than even those which he had laid before the house that evening.

The petitions were then laid on the table, and ordered to be printed.

TUESDAY, JUNE 7.—Sir Francis Boddart moved "That an humble address be presented to his Majesty, praying that his Majesty would be graciously pleased to cause the evidence taken before the commissioners appointed to inquire into the Court of Chancery to be laid before the house."

Mr. Peel believed it was without precedent that a committee should be thus called on to report the evidence taken before it, without the opinion or determination at which it had arrived on that testimony. Unless the hon. bart. could lay some much stronger ground for his motion than he (Mr. P.) was yet aware of, he could not accede. It seemed to him, moreover, that no kind of public good could be derived, under present circumstances, from the production of this evidence; and he should even object to a more modified proposition—for instance, to the production of any separate portion of the evidence that might be expected to have been taken before this committee. Supposing that this evidence could be printed in the course of the present session of Parliament, within a fortnight or three weeks, could any public measure, even in that case, be founded upon it (hear)? The commission had already sat seventy days, and had examined five-and-forty witnesses; and it was to be presumed they were unprepared for the hon. bart.'s motion; so that a considerable time must necessarily elapse before the whole of the evidence which they had taken could be copied out and prepared. Even after it should have been printed, it might readily be imagined that members would require some time properly to digest and consider it; for without time, how could they be prepared to form an opinion on such important matters? He could not help thinking that it would have a very prejudicial effect to publish this evidence without the statement of such measures as the commissioners might feel it expedient to recommend upon the result of their investigations. He considered this inquiry as an extremely valuable and important one; and he utterly disclaimed all imputation of opposing the motion of the hon. bart. with

any view to conceal the evidence which might have been taken before the committee. He seriously, and upon his honour, assured the hon. bart., that he earnestly hoped some efficient remedy might be provided for the evils which he believed to be occasioned by the present condition of the Court of Chancery (hear, hear). Without meaning, in any degree, to impute blame to any body connected with that court, he certainly could not hear these serious complaints of the dreadful delays of Chancery, without believing as an honest man, that these delays must be effectually remedied and provided against in future (hear, hear). He trusted that ere long the house would be in possession, not only of a careful, but of an ample report on the subject; and though he certainly could have wished that the commissioners would have rather reported, from time to time, on separate points of their inquiry, than have waited to produce a general report upon the entire objects of their commission; yet it would, in his opinion, be highly unadvisable now to interpose, when the completion of their labours might be so speedily anticipated. He had very recently had communication with an individual who, as being at the head of the jurisdiction in question, might be supposed by many to feel, in some degree, personally interested in this matter; but who, in reality, as he (Mr. Peel) conscientiously believed, felt no concern of that kind—he meant the Lord Chancellor (hear); and from what that noble lord, and, indeed, other members of the commission, had told him, he did unquestionably believe that a full report, including the evidence, might be printed before the next meeting of parliament. Now, if the fact were so, and if there could be no time in this session to allow of any measure, founded on the right hon. baronet's motion of that evening, to be produced to the house, he thought he must have satisfied the hon. bart. himself that it could not be proper for the house to accede to that motion. On these grounds, the house would perceive, that if the motion of the hon. bart. were carried, it would amount to a virtual superseding of the committee. He (Mr. Peel) had not the slightest objection, in the meantime, to produce the commission under which the commissioners were appointed and empowered to act, in order that the house might see what were the terms of it, and who they were that had been selected to discharge its duties (hear);—but he was compelled to resist the premature publication of the evidence.

Sir F. Burdett, notwithstanding the arguments which the rt. hon. gent. had just advanced, could not help thinking that so long a time having elapsed since the appointment of this commission, it was highly important the house should have before it, forthwith, the evidence which the commissioners had obtained. As to the commission itself, he meant not to impute any blame to it on account of the delay which had already taken place: but the individuals composing it were persons whose professional and other avocations could scarcely have left them sufficient time to perform the duties of commissioners with sufficient diligence, compatibly with the duties imposed upon them by their private pursuits. For this reason he complained of the constitution of such a commission (hear, hear). When he saw at the head of it the Lord Chancellor himself, he must say that the principal who presided over the very sys-

tem out of which the delays arose, was not exactly the party who should be placed over a commission intended to remedy that which the learned lord might perhaps not consider an evil (hear). But the powers of those commissioners were extremely limited, and by no means going to the root of that evil. They went to the investigation of the practices of subordinates in this court; but not of the construction and nature of the court itself (hear). Now, since the committee had been so long employed in collecting information, it was proper that the house should be made acquainted with their proceedings. The evils to be inquired into were so extensive, so universal, that there was hardly a family in the kingdom which had not been embarrassed by their baneful operation. It was not so essentially necessary for the house to be in possession of the opinion of any set of commissioners, as to find out, upon the evidence offered to them, some speedy relief for evils, which from day to day were going on, increasing in number and amount, and becoming more and more oppressive on the subject. The business of the Court of Chancery was from day to day increasing. But its proceedings were not regulated by the common law of the land: it was altogether a sort of stolen-lan jurisdiction, affecting to proceed on the principles of the civil law, but really acting on a system that was repugnant to the principles of common law, and, he might almost say, of common sense (hear). It was obvious, that one great remedy which might be applied to the evils occasioned by the present constitution of this court, would be to provide for its proceeding upon principles of the common law (hear). If, instead of all that immense mass of affidavit evidence—if, instead of the Lord Chancellor's directing voluminous written statements to be prepared, and circuitous proceedings by interrogatories, when, perhaps, the man might be sitting under the very nose of his lordship who could explain the transactions in question before him—if this practice were done away, and the rule of the common law and of common sense were resorted to, of taking the best, and not the worst, testimony that could be obtained—of preferring oral testimony where it could be gotten, to artfully fabricated depositions—then, indeed, something like permanent good would be effected (hear, hear). The Lord Chancellor, however industrious he might be, however desirous to obtain information, however conscientious, was bound to observe the proper means for enabling him to form correct and accurate judgments (hear). By the existing modes of dilatory proceeding, under which a person was not considered bound to attend until he had been summoned three times, and by all those means which enabled a party, on paying up his fees punctually, to go over so many seals—a dishonest man, who could afford such measures, had it in his power to impose upon others the necessity of following him through a course of almost heart-breaking litigation. If a whole year had been employed in collecting information only about the fees of Chancery, enough had been done to enable parliament to proceed on the evidence taken before this committee. If the other avocations of the Lord Chancellor did not give him time to attend to the business of the Court of Chancery—a fact which was roundly stated,—let us have judges enough to do the business properly; let us not be placed

under the necessity of pursuing justice by such dilatory and expensive methods (hear, hear). With respect to bankruptcy cases, some new provision ought to be adopted. There was not a more fertile source of abuse than the manner in which commissions of bankruptcy were sued out and prosecuted. In this department, there were no less than seventy judges, who might or might not attend at their pleasure, and hence a most ruinous delay was frequently produced. Those seventy places were in the gift of the Lord Chancellor; and they were generally bestowed upon young barristers to begin with; for no one would say that those who filled them were selected on account of their abilities, or peculiar fitness for the situation (hear). If there were only seven, or only two courts, attended by persons who would give themselves up wholly to the business, that business would be better done, and justice would be more speedily administered, than it was at present by this multitude of assistants. Twelve months ago a commission had been appointed to inquire into and to report on the practice of the court of Chancery. No report had yet been made, and the *rt. hon. gent.* now declared that it would be detrimental to the public to produce the evidence taken before that commission. He could not, however, perceive that any mischief was likely to be produced by placing that evidence before the public. It appeared that in the courts of Equity, the expense of procuring justice was much greater than in any other quarter, and it certainly was proper that the house and the public should get possession of every circumstance which could by possibility guide them to a remedy for so serious an evil (hear, hear). The first thing which ought to be placed in their hands was not the report of the commission, which appeared to him to be of no importance, but the evidence taken before the commissioners. That evidence ought to be produced immediately. So far from delay being advisable, he was strongly impressed with the idea, that much mischief would be occasioned by withholding the information which he now moved for. He relied on the good sense of the house for supporting this motion to make the evidence public. The minds of men, generally, and more especially the minds of members of parliament, would be directed to the consideration of those remedies which the nature of the case called for (hear, hear).

*Mr. Hurst* expressed himself in favour of the motion. In a suit in which he was engaged, and which he eventually succeeded in gaining, he was obliged to pay *8l. 17s. 6d.* for every *10l.* he recovered (hear).

*Mr. Peel* said, if the *hon. bart.* renewed his motion very early in the next session, he certainly would not oppose it. He had no desire to perpetuate abuses of any kind. This he had shewn by his bill to repress frivolous writs of error.

*Mr. Denman* observed, that the bill for repressing frivolous writs of error was brought in on account of the notoriousness of the evil which it was meant to correct; and this was a sufficient reason for the production of the evidence now required. It might be true, that no such proceeding as that now adopted by his *hon. friend* (*Sir F. Burdett*) had ever before been resorted to in that house; but the question was, whether the circumstances of the pre-

sent case did not fully justify it? An *hon. member* who had recently spoken, stated, that he had been charged nearly *8l.* for the recovery of *10l.*; and on the last night when this subject was before the house, two or three gentlemen had related to him cases of amuitants as to whose right to recover certain sums of money no doubt existed, but who were unable to procure that to which they were entitled, until several of them joined to defray the expenses of an amicable suit. Many of those persons might die before a decree could be obtained; but, at all events, such delay must be a disgrace to this enlightened country. In the city, if an individual had a claim upon a small quantity of stock, placed in the name of executors, although there might be no doubt as to the right, still the answer was, "We cannot pay it, until you have instituted a suit in equity" (hear, hear). In many of these cases the attorneys said, "Don't move in such a suit, for the costs will carry away all the money" (hear, hear). These were matters of notoriety—matters long before the public, and they called loudly for legislative interference (hear, hear). Certain he was that these evils, tremendous as they were, would never be rectified, unless the members of the House of Commons applied their minds to the subject—unless they took the matter into their own hands (hear). In the year 1823, the *hon. member* for Lincoln (*Mr. J. Williams*) turned his attention to this subject. The friends of the Lord Chancellor opposed, and the motion was lost. In the following year, it was defeated by the *rt. hon. Secretary of State*, who proposed that a commission should be appointed to carry into effect the object which his learned friend (*Mr. J. Williams*) had in view. Commissioners were appointed; but up to this period they had made no report; and, in his opinion, they were not likely to make one for some time. It appeared that they had sat for seventy days, and had examined forty-five persons. They must, in such a period, and from so great a number of persons, have elicited much information which it was desirable the house should be possessed of. But they were told that some difficulty existed with respect to getting it through the press in time. He, however, believed that the evidence might be printed in three or four days. It had already been lithographed, and any person might have it. In fact, it was public, and he should be very sorry if it were otherwise. But this sort of publicity was not like placing it formally before that house (hear). He would quote a short extract from the evidence given before that commission, by a barrister, which would show of what importance that evidence was. The barrister was asked, "Whether he had ever seen the misery of those who had been obliged to embark in Chancery suits, and whose hopes had been delayed and disappointed?" He answered "No; I see no such things. The solicitor passes between me and the client. I can only speak of the probability of misery being created by those delays. But this I know, that after long litigation, the order of the court has been often drawn up to divide the remnant of the property, not for the benefit of the litigating parties, but in part payment of the solicitor's bill" (hear, hear). Surely the house could not be aware of such monstrous cases, without feeling the necessity of applying, and speedily applying, some effectual remedy.



(hear). A distinction was attempted to be drawn on this occasion, founded on the circumstance of this inquiry being conducted by commissioners. Now, he could not see what distinction could fairly be drawn between commissioners appointed by the crown, and a committee nominated by that house. Yet, in the latter instance, the evidence given had been considered a fit subject for legislation, without waiting for any report. Thus it was with respect to the committee on the state of Ireland. Such, he believed, was also the case with reference to the committee on the combination laws. A great deal of the evidence given before them consisted of complaints made by the masters against the journeymen, and the committee, he understood, were unwilling to hear any evidence on behalf of the journeymen (no, no). He understood the committee were ready to propose a severe law, before they heard what the men could advance in support of their conduct (no, no). Such, certainly, was the report. If evidence had been given before the commission, with respect to subpcenas, or any other process of the court of Chancery, he thought it was quite competent for the house to legislate on that branch of the subject, without waiting for any report. When the report came, it would of course be subject to the revision of that house, and to the scrutiny of public opinion; but, in the meantime, the best way to become conversant by degrees with the great and diversified subject before them, was by the publication of the evidence now called for. There was, he knew, a great degree of tenderness manifested towards the individual who presided in the court of Chancery (hear, and laughter). This proved nothing more than the extent of his influence (hear). No man wished less than he did to give that learned lord offence, but he could not help alluding to him when he heard gentlemen argue this question on the ground that no personal fault could be found with the individual who was at the head of the court of Chancery. He did not mean to say that there was any personal fault; but there might be personal fault; and that was a matter which he thought ought to be well considered. One fact alone would show the manner in which the business of the court of Chancery was conducted. In the beginning of last Michaelmas Term, 45 causes were set down in the paper to be heard in the term, and on the last day of the term they still remained on the paper (hear). Not one of those causes was touched; and he begged the house to recollect that every one of the parties connected with each cause had to pay 11. for setting it down, exclusive of incidental expenses. If there were ten parties plaintiffs, and twenty parties defendants, each of them had to pay 20s. for the privilege of not being heard. A great deal of praise had been bestowed on the Lord Chancellor because he disposed of much business by way of motion. But great interests ought not to be so disposed of. If the case came afterwards to be formally adjudicated, the hearing of it by motion tended only to instil prejudices in the mind of the judge; and if it were disposed of at once, it passed by without that solemn consideration which all cases of moment ought to receive. He wished to show that the system was not altogether to blame, and if so, the person at the head of the court ought not to escape all censure. The Lord Chancellor had been for twenty-five years a constant witness of all the evils arising from

the system, and it was a little surprising that he had made no attempt whatever to remedy those defects of which the public complained. On the contrary, he opposed with all his power every effort which had been made in the Commons House of Parliament to remove those evils. As to the other house, no attempt had been made there to lessen them in any degree (hear). The rt. hon. gent. said, that if the proposition were made next session, he would give it his sanction; but a motion of this kind, made next year, would be just as unprecedented as at present. Why, then, should he refuse his sanction now? A great degree of distrust had been created throughout the country, in consequence of the way in which the commission had been formed; and he feared that the rt. hon. gent.'s interview that day with the Lord Chancellor would have the effect of rendering that distrust still greater.

Mr. W. Courtenay said, the commissioners had to enter into a more extensive range of inquiry than gentlemen on the other side of the house seemed to imagine. When this subject was first brought before the house, he resisted the motion for the appointment of a Parliamentary committee to investigate the cause of the delays in the Court of Chancery and the House of Lords, which were so much complained of, because he thought such a committee would be incompetent to apply a remedy to those abuses. He therefore approved of the commission. Prior to this year, specific charges were brought against the administration of justice in the Court of Chancery. Certain abuses were pointed out, which it was said, rendered it difficult to obtain justice in that court. But now a different course was pursued, and the whole system of the court was arraigned. The authority of the commission extended over an immense range of inquiry; it was appointed to consider "whether any, and what alterations could safely be made in the practice established in the Court of Chancery, or in the offices connected with that Court; or in the practices established in those offices, whether in respect to law or equity." It also extended its inquiry into general matters of equity—into bankrupt cases—into the different stages of proceeding in all matters from the beginning to the end of a suit—into the mode of hearing and deciding causes, together with the expense attending the various proceedings, and the time which they occupied. Now, he was not aware of any set of words in the English language, that could give to a set of commissioners a better opportunity for taking a most extensive view of this subject, through all its ramifications (hear). But the commission did not stop here. It went on to meet a point, which had been suggested frequently in that house, relative to the variety of business transacted in the Court of Chancery; and the commissioners were called on to inquire "whether any and what part of the business can be usefully withdrawn from the Court of Chancery, and transferred to some other court." Words more comprehensive than those could not, he thought, have been selected. Whether the bankruptcy cases could with propriety be withdrawn—a point long contended for—was thus made a part of the subject to be investigated by the committee. There was no part of this inquiry, extensive as it might be, that would not be fully, fairly, and substantially met. If the present commission were not entitled to the confidence of the house and country, to whom

Known in the profession as "*The Attorney-General v. the Skinners' Company*;" and the object of it was to recover an estate for the school, worth from 4,000l. to 5,000l. a year. In the year 1820, the case was heard before his Honour, the Vice-Chancellor, and was promptly decided. There was an appeal, as there always would be where there was money to support it, from the decision of the Vice-Chancellor to that of the Lord Chancellor; and that appeal, after standing for just one year and eight months before his lordship, at last came on for hearing. It was heard, and the Lord Chancellor confirmed the decision of the court below, on the correctness of which he understood it was impossible to harbour a single doubt. In 1821, on another petition, the decision was the same way. The case then went into the Master's office, and there it remained two years. Death then took off the Master, and the case then went to another, who succeeded him. He had exerted himself no doubt to the utmost; but in spite of all his exertions, the matter was in Chancery still. It was now in the seventh year of its age, and how much older it might grow was a point he would not pretend to determine. The income in dispute he had before told them was between 4,000l. and 5,000l. a-year; and all parties had agreed that it should be applied in increasing the amount of exhibitions belonging to the school. One generation of boys had been defrauded of, or if that were too strong a word, had lost the benefit of these exhibitions; and another generation of boys was likely to have the same loss to submit to, for the Court of Chancery unfortunately laid fast hold of all the funds in dispute. Let the Vice-Chancellor decide promptly—nay, let the Lord Chancellor do the same; let there be doubt upon the question or no doubt; if property were involved, the Court of Chancery fixed its fangs into it; if there were money, it fattened upon it; if there were life, it fed upon it (hear). The evil was not of modern creation; it existed 150 years ago, as Butler bore testimony in *Hudibras*. For the knight, after he had tried every means to win the widow, direct and indirect,—and direct means were always the best to be pursued in such cases—after he had assailed her with all the artillery of sighs and glances,—after he had attempted to draw her into an epistolary correspondence, and had tried, but in vain, many other amatory proceedings, received the advice of his squire to write her "a love-letter in Chancery," which, he stated,

"Would bring her o'er to be his wife,  
Or make her weary of her life" (a laugh).

He would undertake to say that the widow would have consented to take in the knight, the squire, "the camp, the pioneers, and all," rather than take in that bill of Chancery, which was as great a nuisance 150 years ago as it was at present (a laugh). Relief was to be obtained through the House of Commons, and through no other quarter (hear). Of the commission now sitting he would say nothing; into Chancery it had been cast and thrown, and he anticipated that at no distant time, the house would receive a suppliant petition from the members of it, praying to be delivered from the irremovable court into which they had been cast by the manoeuvre of the *rt. hon. secretary*. He expected no good from the sitting of that commission; in that house, and in that house alone,

could the recovery of the Court of Chancery be effected from the diseases which beset it. A committee of that house or nobody must be the surgeon to accomplish the cure. It was in vain to tell him of lawyers reforming themselves (hear)—of courts of justice sitting upon their own abuses, and flogging themselves out of their jurisdictions and their fees as *Saicho Panza* flogged himself out of his vices and peccadillos (hear). Whatever might be thought or said within the walls of parliament, the people of England knew full well that from such proceedings no amelioration of the system could be rationally expected. It was therefore incumbent on the house—for the time was now come—to take some decisive step. The *rt. hon. secretary* opposite, had got rid of 400 statutes at one blow in his attempt to amend the system of juries. He trusted he would follow up the blow and give effective support to reformation in other quarters. There was one splendid act which bore the date of the reign of James I., and which required that that house should annually resolve itself into a committee for the consideration of matters of justice. The forms of this committee still remained; no great general benefit had accrued of late times from its application. Some specific and crying grievance, it was true, had occupied attention—some partial ameliorations had been attempted—some patch of purple, or black had been applied—"Purpureus late qui splendet unus et alter—Assuitur pannus"—but no great leading reformation had been effected. The subject had never been considered as a whole—never looked upon with an enlarged and comprehensive eye, and therefore the microscopic glances which were occasionally taken at it, had only served to render confusion worse confounded, to bring the general system from bad to worse, and make it what it was—a disgrace to the country (hear, hear). What else but a disgrace was it, to be behind a neighbouring country, in so valuable an institution as that of law, and in such essential requisites as the expedition and cheapness of its administration? And yet this was the condition of England at this time as compared with France. When he deplored on the part of his own country this imperfect condition of her laws, he did not venture upon any thing so foolish as to propose any remedy; but whether the reformation were practicable or not, it was due to the people of England that the attempt should be made (hear, hear). The enlightened feelings of the nation were at variance with the existing system of the Court of Chancery: it put men to the blush, and stopped the channel of justice. At Athens, officers of knowledge and reputation were annually appointed, whose sole business it was to consider what reformation the alteration of circumstances and times required: they were bound to consider what had grown useless, what had grown foolish in the Athenian code, to report upon it, and to move for its repeal. Where had this country so excellent and useful a mode of revision, to chasten the prurency which the lapse of time had occasioned in its laws? They had, indeed, in its full operation, the machinery of legislation, which added largely to the already encumbering bulk of their code, giving enough to its dimensions, but nothing to its utility (hear, hear). It had been a long established maxim, that every thing which was worthy of being attended to was difficult to be obtained; but they had instances enough in other countries of simi-

his attempts being made with success in reforming old and bad institutions. The King of Bavaria had introduced an improved penal code into his dominions. They need not look, indeed, beyond the neighbouring country of France, to see the beneficial results which attended a revision of the old law: there indeed it was effected by a usurper, a man of great and singular qualities, and of great and singular fortunes—a soldier, but one, who while engaged, it could not be said absorbed, in these military achievements, had left behind him a code of law, which would eternize his fame, and form a monument to his greatness that would last, and be remembered with gratitude, when the history of his wars and the vices of his military ambition would have long passed away (hear, hear). What a great neighbouring country had so well done, might surely be tried in this. A professional gentleman had lately published a book upon the crying grievance of this Court of Chancery, in which, after quoting the Chancellor D'Aguesseau's opinion of what ought to be the constitution of a court of equity, he adverted to what that court had practically become in this country, and said, "Lord Eldon had not thought fit to follow these directions throughout the length of his reign, and had, unfortunately for the people, and for his own reputation, taken a different course." (The learned gentleman then continued to refer to Mr. Miller's book, from which he extracted, among others, the following passage concerning the Lord Chancellor:) "Perhaps he thought that the surest way to keep his place was to refrain from innovation, and this was the course he has invariably pursued since he held the office: that he will continue to do so, is not to be doubted, when we consider how difficult it is to change the habits of a man of 75 years of age. But this is a reason why an ancient person ought not to be continued in such an office. It is probable he has no conception of the sense generally entertained of his judicial career. It is one of the misfortunes of his life, that he has made mediocrity and submissiveness the passports to his favour (hear, hear). He is a grievous hindrance to the improvement of the law as a science: he has always ridiculed and resisted all fair improvements; nevertheless they are advancing; and if he remain, he will at length find himself carried away by the current" (hear). Had not these opinions been thus publicly promulgated by this author, he (Mr. W.) should not himself have proclaimed them; but when he found them thus submitted to public consideration, and that, too, at the moment he was calling public attention to the Court of Chancery, he felt himself warranted in quoting them (hear). Before he sat down, he begged to make this appeal to the character and to the sense of public duty of the House of Commons. They knew the enlightened state of public opinion, and that the country looked to them for a redress of grievances; he called upon them not to act upon the opinions of lawyers, who were under the influence of narrow professional views; but in a manner conformable to the march of public intelligence, and the glorious progress of arts and sciences: these were the signs to which they must attend, an indifference to which would convey severe censure upon those who permitted any longer the existence of a system which was as much at variance with the intelligence and information, as it was

with the happiness and justice of the country (cheers).

Mr. John Smith, without intending to cast the slightest reflection upon the Lord Chancellor as an individual, wished to state his opinion of the grievances which the people of this country, especially those engaged in commerce, laboured under, from the operation of the existing administration of justice in the Court of Chancery. The system was looked upon with terror by men of business: it was not an uncommon practice for a dishonest debtor to threaten to file a bill, which would terrify the creditor into suffering the greatest impositions (hear, hear). He could state a fact in illustration of this, which had happened in his own affairs. He had lent a sum of £500l. to an individual, on the bond of a most respectable surety. The bond fell due 18 months after this loan, and when application was made to the surety for payment, the answer was, "True, I signed this bond, but I do not now owe the obligor so much; I have since had other transactions in money matters with him, and now only owe him 4000l. instead of £500l, and that is all which I shall pay." Thinking this answer very extraordinary, he (Mr. Smith) took the bond to his solicitor, and stated the circumstances; when he was informed, as he had expected, that the subsequent pecuniary affairs between the surety and obligor, had nothing to do with the original obligation of the bond as affecting the obligee who had advanced the money; and his solicitor offered to serve the surety with a notice of action for the recovery of the debt, but he added, "Just as your claim is, this man can apply to the Court of Chancery for an injunction to restrain you from proceeding at law; and though he must ultimately be defeated with costs, still my costs, that will ultimately fall upon you in the progress of this litigation, will probably amount to more than the 500l. at issue" (hear). Startled at this prospect, he accepted the 4,000l. and put an end to the matter (hear). In another case, he had acted as one of the assignees of a bankrupt; a defendant had converted a matter of business into a suit in Chancery; and that suit had lasted for 23 years (hear, hear). When he named the period of its duration, he meant not to cast any blame in the particular instance upon the Lord Chancellor, for he believed no judge would have been competent to have settled so voluminous a mass of accounts. Ashamed of this delay, and happening to meet his hon. friend Mr. Baring, who was a creditor upon the estate, they consulted what had better be done to relieve the parties from their existing difficulties. His hon. friend then sat down to unravel the accounts, and in three hours put into order that which the Court of Chancery had failed to do in 23 years (hear, hear), and assisted in terminating the litigation. He suspected that there was something inherently wrong in the whole form and nature of the Court of Chancery. The system, he was persuaded, was in itself erroneous (hear, hear). Let any man who had ever read a bill in Chancery—the bill in the case to which he had alluded was as bulky as the table before him (alluding to the large table on the floor of the house)—let any man who had ever read such a bill, say whether he could understand its import? It abounded in words, but they were words without corresponding ideas—the whole bill was constructed in a language used two centuries ago. Ought

required, in making out the abstract of a title, eight hundred brief sheets, prepared, as he knew the fact to be, by one of the most honest solicitors in London. This gentleman had found it impossible, with safety to his client, to compress the abstract of a title to an estate in less than eight hundred sheets. He wondered that the country gentlemen had not given their attention to this subject. If they considered what an enormous tax it levied, in the course of years, upon their property—the expense of stamps alone which it brought with it—and the dangerous intricacies which rendered their possessions wholly insecure, they would not remain satisfied. He knew of no reasons sufficient to justify its continuance. A system of laws contrived, when the personal property of the kingdom was not one-five-hundredth of the real property, and when all property passed by rude conveyance, almost from hand to hand, could never be suitable to a period when commercial wealth and its transactions so infinitely transcended the value of all the real property in the kingdom. Now, then, were they to proceed in this matter? He had always thought that a commission, such as was here called for, ought to consist of persons selected from a variety of the professions and classes of society, so that it should possess a combination of the talent and learning of the lawyer, the enlarged and enlightened views of the statesman, and of all the practical knowledge and acquirements of the merchant (hear). Such a combination as this should be concentrated, and brought to bear as much as possible on the great object of framing such a system of laws as might enable the subjects of Great Britain to obtain—what at present they could not obtain—justice cheaply and expeditiously (cheers). It was not his intention on this occasion to enter into any examination of what had passed heretofore in any of our courts of justice; much less did he mean to go into any examination of the faults of those who had presided in those courts. His object as a lawyer and a member of parliament was to find out where the evil existed, and to attempt to discover and apply a remedy for it, rather than to fix the blame on particular individuals (hear).

Mr. M. A. Taylor said, it was now long since he had first attempted to prove that the defects in the system of the Court of Chancery, and the appellate jurisdiction of the House of Lords, amounted to a denial, and indeed a complete subversion of justice. The reports of the committee appointed to inquire into the nature of those evils stated, that so rapidly were causes accumulating at that time in the jurisdiction in question, that it was judged they could not be disposed of in less than 25 years. This was stated in both Houses of Parliament, and was not contradicted in the House of Lords. The public had been seriously aggrieved by the proceedings in the Court of Chancery; and this he would say, notwithstanding that he had the honour of being personally acquainted with the Lord Chancellor, and believed him to be one of the most upright and honourable minded men in the country (hear). With regard to the appellate jurisdiction, he (Mr. T.) had proposed some years ago to provide assistance in the House of Lords, either by an additional number of Lords for the determination of appeals, or by the appointment of an additional judge in that jurisdiction. After a twelve years' hard

struggle, Lord Gifford had been at last appointed to preside with the Lord Chancellor at the hearing of appeals (hear, hear). The effect of this arrangement had been, that the lords had reduced the number of appeals in an astonishing degree, and were proceeding with them in a manner that reflected upon them the highest credit (hear, hear). Why should not some beneficial arrangement of a similar nature be adopted in the equity jurisdiction? He was not the individual who moved the question in respect of these delays in Chancery; but had he been present on that occasion, he would not have consented to such a commission as was then named. For who was nominated at the head of it (hear, hear)? The very individual whose conduct was complained of as tending to encourage those delays (hear). The fact was, that as it existed at present, this chancery jurisdiction was perfectly detested throughout the country (hear); and in an age like this, such cumbrous forms of proceeding could not much longer be endured. Bye and bye there would be that acceleration effected in the business of chancery, that he would scarcely despair of seeing a steam practice introduced (laughter). He knew an amicable suit which had been before the court 33 years (hear, hear). It was admitted by the best and most experienced practitioners, that under some circumstances, to recover a property of 3000l. out of Chancery, would not cost less than 1500l. (hear, hear). What was such monstrous injustice as this owing to? To the immoderate amount of fees accruing and accumulating upon such long delays (hear.) He could scarcely imagine why it was that the Solicitor-General should quarrel so much with that case of Mr. Palmer, which had been mentioned before that evening. Mr. Palmer's case had been depending or hanging up three whole years.

The *Solicitor-General* begged pardon; two years only.

Mr. M. A. Taylor—Only two years (a laugh). Then on the learned gent.'s own admission, it was another case to prove the hardships that were produced by this fatally constituted court. The Fleet and other prisons of the metropolis, which he (Mr. T.) had visited, contained numerous victims, without clothes, and almost in a state of despondency, who would not have been in those melancholy abodes, and in so wretched a condition, but for the injuries which they had suffered through the Court of Chancery (hear). Perhaps the house was already aware of that affecting case of the two widow ladies, who were interested in a property, which an attorney managed to hang up in Chancery. Pending the proceedings one of the ladies died at the age of 81, nine years after she became invested with the right to a beneficial interest in that property. Her sister, too, survived her only by about half a year (hear, hear). With respect to the inefficiency of the commission he alluded to, and the causes assigned for the long delay of its report, he would only say, that if some of the members were incapacitated from attending it by reason of professional or other engagements, they ought never to have been placed upon it. Without some vigorous struggle on the part of the house, no good would be done in the business (hear).

Mr. Peel would not have said a word upon the question but for the direct allusions which had been made to him. The learned gent. had

insinuated that he (Mr. P.) wished to impede or defeat the objects of an inquiry into the delays of Chancery. He denied any such imputation (hear); he wished for a full and open inquiry into the whole practice of the Court of Chancery. He denied that any inference to the contrary could be drawn from the manner in which the commission of last session had been constituted. Government had good reason to adopt that sort of constitution, from the success with which the Commission of Inquiry into the Judicature of Scotland had been attended (hear, hear). It was but the preceding evening that he had heard that commission very highly eulogized in that house, and yet it was composed entirely of lawyers—the very men whom the learned gent. thought to be the most unfit to be admitted upon committees of that kind, but who were in such commission associated with judges, as the best qualified to report on the condition of their own judicature. He had a much higher opinion of the conscientiousness and integrity of lawyers than the learned gent. opposite, who ought to know them so much better, seemed to give them credit for (a laugh). An hon. gent. had argued that a Mastership in Chancery was disabled from conducting any inquiry into matters of accounts because he was not an accountant. It was very odd, on the same evening, to hear it contended by the learned member that a man was disabled from inquiring into questions of legal proceedings because he was a lawyer (hear, hear). What possible object could he (Mr. P.) be supposed to have, if not a full and candid examination of this subject? He owned that he had hoped ere this, that the report of the commissioners would have been made (hear). He thought, too, it would have been much better had they determined to report in the first place on some specific branch of their inquiries, instead of waiting to prepare their general report upon the whole of the topics embraced by the commissioners, because it was evident that any such general report on the Court of Chancery, must of necessity be postponed for a considerable time. When he considered that these commissioners had already sat 70 days (hear); had examined 45 witnesses; and had rejected no witness who came forward voluntarily to tender his evidence or to furnish information; when he reflected that they had their own avocations also to attend to, and knew that it was their intention to publish the whole of the evidence taken before them, and not merely their general report upon it; what object could he have in view but a full and perfect examination? But what were the names which he found in this commission? There was the noble and learned lord at the head of his Majesty's law officers: could any thing like a toleration of unfairness or disingenuousness be dreaded from him? If the guarantee of his noble friend's integrity and character were insufficient to ensure the public confidence in this commission, would it not be confirmed even by the names of others who were his colleagues? Was there not the learned member for Litchester (Dr. Lushington), whose speech of that evening had so well attested the manly independence of a mind that would not suffer any thing like evasion, or a want of faith, in any such inquiry as that which was the object of the commission (hear). The terms of the reference had been complained of as too much li-

mitting the powers of the commission. But they were as comprehensive as those of the learned gent., "Inquiry into the delays and expenses of the Court of Chancery, and the causes thereof." The object of the commission of last session was thus stated, "Inquiry into the forms and process of a suit, from its first institution to its close." These terms surely opened every detail connected with the system of Chancery proceedings and the Chancery Court (hear). The reference then proceeded—"and whether any part of the present jurisdiction of the court can be removed" (hear). With respect to what had been said about the present defective state of the law as to the transfer of landed property, had he (Mr. P.) referred any such extensive subject to that commission to report on, besides its more immediate inquiries, would he not have rendered himself liable to the charge of purposely doing so, with the view of withdrawing and diverting the commission's attention from the great objects of its labours? If, indeed, that law could be altered, let it be altered; for it was due to the increasing wealth, and to the commerce, and to the property of the country, that a law regulating the transfer of real property should be left in no state of uncertainty or defectiveness. So much in answer to the objections touching the constitution of the commission. But when the learned gent. quoted *Hudibras*, to show that 150 years ago the same delays were charged against the Court of Chancery as now, it should appear that 13 months was no unreasonable period for the preparation of a report upon the nature and effect of those delays.

Mr. Hume referred to a passage in Mr. Miller's book on the abuses of Chancery. That author stated that it was in vain to hope for any reform or improvement in the system, so long as the power and patronage of a vast number of offices, such as the six clerks, master, curators, &c. remained in the hands of the Lord Chancellor, who thus disposed of numerous posts, some of them mere sinecures, the united salaries of which amounted to not less than between £200,000. and 300,000. a-year (hear). The learned lord had appointed a near relation of his own to no less than six situations.

Mr. Brougham did not expect any satisfaction, from the partial report of the commission appointed to inquire into the state of chancery practice, of which report the learned gentleman (the Solicitor-General) had, he believed, given the exact description it would deserve, when he said he expected that it would be very unsatisfactory to all parties (hear). The powers of countenance possessed by the learned gentleman were very great, as were those of every gentleman who practised in Chancery; but he was quite convinced that the learned gentleman would find it impossible to retain the gravity of his features, if he declared that he expected the Chancery Commission to effect much benefit (hear). It was wrested from government by the force of public opinion, and by the expression of it which had been heard within those walls; but the objects which those who called for it had in view were entirely frustrated. The learned gentleman, in speaking of the Catholic relief bill, had said with regard to one of its provisions—that which was intended to control the correspondence of the Catholic clergy with the see of Rome,—  
 "Was ever any thing so absurd! a popish

peases above enumerated, 861 odd, were wise and necessary. He could not quite understand why it was wise and necessary that five years should pass away during which the whole or at least part of the charity was suspended. In that time, out of 40 individuals who benefited by this charity, nine had died, and none had been elected to fill their places. In that time 1001. had been accumulated to the funds of the charity; and the petitioner could not see how it was in theory just, or in practice useful, that this accumulation should be withheld from those for whose benefit it was intended. Indeed, the petitioner could not comprehend the wisdom and necessity of many of the charges in this bill of costs, of which, with their permission, he would read a few items to the house. (Here the learned gentlemen read the following extracts from the bill of costs, which excited great laughter in the house):—

1894. S. s. d.
- Dec. 6.—Attending Court, three petitions in the paper for judgment, when the Lord Chancellor went partially into the matter, and requested to be furnished with the repealed local act, which he said he would read, and give his judgment to-morrow - - - 2 0 0
- 7.—Attending Court all day, three petitions in the paper, when his Lordship said, "he had to leave early, but would not fail giving his judgment to-morrow morning" - - - 2 0 0
- 8.—Attending Court all day, three petitions in the paper for judgment, when the Lord Chancellor adverted to the question of jurisdiction, which he desired to be again spoken to, and requested that the Dean and Chapter of Canterbury, they being the lords of the manor of Walworth, should attend him, and appointed Saturday next for that purpose; and requested to be informed as to the mode of appointing overseers at the time the Charity was founded. 2 0 0
- 11.—Attending Court all day, three petitions, when the same were called on; and Mr. Shadwell applied, on the part of the Dean and Chapter of Canterbury, to let the petitions stand over, and the same were ordered till the first seal before Hilary Term, to give the Dean and Chapter an opportunity of considering what course they should take - - - 2 0 0

1895.

- Jan. 11.—Attending Court on three petitions, when Mr. Shadwell, on the part of the Dean and Chapter, stated he was not prepared to go on; and the Lord Chancellor ordered the same to stand for this day fortnight peremptory - - - 2 0 0
- 25.—Attending Court all day, three petitions on the paper, but same not called on - - - 1 10 0
- 26.—The like attendance this day - - - 1 10 0
- 27.—The like attendance this day - - - 1 10 0
- 28.—The like attendance this day - - - 1 10 0
- 29.—Attending Court, three petitions in the paper; same called on, and ordered to stand for Tuesday next, for the Dean and Chapter to prove themselves entitled to interfere in this matter as visitors - - - 2 0 0
- Feb. 1.—Attending Court all day; three petitions in the paper, but same not called on - - - 1 10 0
- 4.—Attending court all day; three petitions in the paper, but same not called on - - - 1 10 0
- 5.—The like attendance in Court this day; three petitions in the paper - - - 1 10 0
- 9.—The like attendance this day - - - 1 10 0
- 10.—The like attendance this day - - - 1 10 0
- 11.—The like attendance this day - - - 1 10 0
- 23.—Attending Court, when the Lord Chancellor directed the Registrar to put the petitions in the paper for Tuesday next - - - 0 6 8
- "This," said Mr. Williams, "is a *discreet* *notandum*, as it is only 6s. 8d., and neither 2s., nor 11. 10l."
- March 1.—Attending Court on three petitions; same in the paper, and called on, when the various points suggested by the Court were again argued at some length, and his Lordship promised to give his judgment this day week - - - 2 0 0
- 8.—Attending Court; but the Lord Chancellor did not give judgment according to his promise - - - 0 6 8

Although there had been all these attendances on the part of the solicitor, and all these promises on the part of the Lord Chancellor, the matter had not yet been brought to a decision (hear). The next petition which he had to present was that of Mr. Walter Honeywood Yate, who described himself as an individual entitled to

estates in the counties of Worcester, Gloucester, and Hereford, which, however, it was in vain for him to attempt to recover, as he had not the pecuniary means which a man ought to possess before he embarked in the dangerous voyage through the shoals of Chancery. To give the house an idea of the enormous expenses to which it was believed that proceedings in that court necessarily gave rise, he stated that a late respected member of that house, Mr. Ricardo, had left by his will the sum of 50,000*l.* as a nest-egg to provide funds for the defraying of any expenses to which his heirs might be put in the Court of Chancery, in defence of their title to the estates in question, thereby giving his opinion of what he conceived likely to be the result of being drawn by any unfortunate circumstance into that most dreadful and most vexatious of English courts. He would read the last paragraph but one in this petition to the house, because he considered it as worthy of its most deliberate attention. It was as follows:—“Your petitioner humbly submits that the means of addressing that court should be afforded to all subjects of the realm with equal facility, and that in affording such means, the House of Commons will be conferring a great benefit on the subject, which will be more sensibly felt by all classes than the reduction of any impost, or the repeal of any tax.” The next petition which he had to present, was a petition from a person of the name of Gower, who, he believed, was connected with the family of the Marquis of Stafford. The petitioner stated, that he had been left by the late Duke of Queensberry an annuity of 800*l.* a year; and declared that there was a provision in his grace's will requiring the trustees to invest, immediately after his death, as much stock in the 3 per cent. consolidated annuities as would secure in the petitioner such an annuity. Shortly after the Duke's decease, his property was thrown into Chancery by the executors of his will—a measure of which the petitioner did not complain, though he did of the delays of the Court of Chancery. This was in 1810. For seven years, though there were avowedly large funds in the court belonging to the estate, the petitioner did not receive one farthing of his annuity (cries of *no*, from the ministerial benches). He believed the fact to be so—at any rate, such was the assertion of the petitioner. At the end of those seven years the petitioner received one-fourth part of the arrears due to him. Three years had since elapsed, but the petitioner had received nothing more; so that there were now arrears to the amount of 1,366*l.* due to him, though the funds belonging to the estate were ample and almost inexhaustible. The petitioner calculated the loss he had suffered by the non-payment of these arrears at simple interest at 100*l.*, and at compound interest at 1400*l.* He further calculated, that if the money, as it had accumulated, had been purchased into the funds, it would at this time have made a difference to him of 2,800*l.* To compensate him for this damage, he had the satisfaction of being told that every thing was done according to the ordinary rules of equity (*hear*). That might be very fine satisfaction for the hon. gentls. opposite, but it was very cold comfort to this petitioner. He therefore thought his case worthy of the notice of the house, and recommended it to their consideration, with this piece of information—that many

assaults under the Duke of Queensberry's will had been compelled to hide their heads in workhouses, in consequence of the non-payment of their annuities, for which there were funds enough in the Court of Chancery, had they not been locked up by the proceedings instituted in it. The next petition which he had to present came from an individual who had applied to him with almost as much importunity as he had used towards the *ri. hon. gent. opposite*—he meant Mr. Gourlay. The petitioner stated that he had presented two petitions before, to which the house had paid little attention. He dated the origin of his ruin from the day in which he was forced to enter into the Court of Chancery. He detailed some of the struggles in which he had been engaged. In it, stated that he had recently been victorious in two issues, but added, that his victories, like those of Pyrrhus, had almost been as fatal to him as defeats. He declared that the benefit of them had been nothing, and that retreat from the contest appeared to him now to be the only good he could obtain. He prayed the house to assist him in that object. He said he had a manuscript of his own case in readiness, and that he wished the house would afford him aid to print it. The next petition which he had to present was from an individual of the name of Joseph Eastcote, who was now confined in the Fleet-prison, under an attachment from the Court of Chancery. This individual stated himself to be more than 71 years of age, and that he had been committed for not answering certain interrogatories. He had now been in confinement two years and five months. The petition stated, that before his commitment, he was living at a village near Lincoln; that he was utterly ignorant of the nature of law proceedings; and that he had trusted every thing relating to this suit to his friend Brown, and to the solicitor whom he had employed. It then proceeded to say, that certain interrogatories were filed; that an answer to them was not put in in time; and that the consequence was that he had been committed, not to the county gaol at Lincoln, but to the Fleet-prison in London, by a special messenger, at an expense of no less than 50*l.* Until those costs were paid, the contempt of the petitioner could not be cleared, and he himself could not be heard in court. For more than a year and a half, immediately subsequent to his commitment to the Fleet, he was entirely bereft of his intellects; that in that interval his friend Brown died, and that he must have died too from want, had it not been from the kindness of the Warden of the Fleet prison, and the humanity of one of his fellow-prisoners. The petitioner further stated, that he had no means whereby to defray the expenses which had been incurred in the execution of the attachment against him, though he had now put in his answer to the interrogatories. He remained in the Fleet prison at this moment, and there, he said, he must remain till the end of his life, if the house did not exercise its humane and necessary interference in his behalf. He asserted that many individuals in that prison were similarly situated, and that the course of the Court of Chancery was, not to inquire why no answer had been put in, but to proceed to imprison the offender, no matter whether his offence proceeded from ignorance and inadvertency, or from deliberate obstinacy. The only remaining case which he had to state was that of Tushbridge school; The case was

penes above enumerated, 861 odd, were wise and necessary. He could not quite understand why it was wise and necessary that five years should pass away during which the whole or at least part of the charity was suspended. In that time, out of 40 individuals who benefited by this charity, nine had died, and none had been elected to fill their places. In that time 1001. had been accumulated to the funds of the charity; and the petitioner could not see how it was in theory just, or in practice useful, that this accumulation should be withheld from those for whose benefit it was intended. Indeed, the petitioner could not comprehend the wisdom and necessity of many of the charges in this bill of costs, of which, with their permission, he would read a few items to the house. (Here the learned gentlemen read the following extracts from the bill of costs, which excited great laughter in the house);—

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- 7.—Attending Court all day, three petitions in the paper, when his Lordship said, "he had to leave early, but would not fail giving his judgment to-morrow morning" - - - 2 0 0
- 8.—Attending Court all day, three petitions in the paper for judgment, when the Lord Chancellor adverted to the question of jurisdiction, which he desired to be again spoken to, and requested that the Dean and Chapter of Canterbury, they being the lords of the manor of Walworth, should attend him, and appointed Saturday next for that purpose; and requested to be informed as to the mode of appointing overseers at the time the Charity was founded. 2 0 0
- 11.—Attending Court all day, three petitions, when the same were called on; and Mr. Shadwell applied, on the part of the Dean and Chapter of Canterbury, to let the petitions stand over, and the same were ordered till the first seal before Hilary Term, to give the Dean and Chapter an opportunity of considering what course they should take - - - 2 0 0

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- Jan. 11.—Attending Court on three petitions, when Mr. Shadwell, on the part of the Dean and Chapter, stated he was not prepared to go on; and the Lord Chancellor ordered the same to stand for this day fortnight peremptory - - 2 0 0
- 25.—Attending Court all day, three petitions on the paper, but same not called on - - - 1 10 0
- 26.—The like attendance this day - - - 1 10 0
- 27.—The like attendance this day - - - 1 10 0
- 28.—The like attendance this day - - - 1 10 0
- 29.—Attending Court, three petitions in the paper; same called on, and ordered to stand for Tuesday next, for the Dean and Chapter to prove themselves entitled to interfere in this matter as visitors 2 0 0
- Feb. 1.—Attending Court all day; three petitions in the paper, but same not called on - - - 1 10 0
- 4.—Attending court all day; three petitions in the paper, but same not called on - - - 1 10 0
- 5.—The like attendance in Court this day; three petitions in the paper 1 10 0
- 9.—The like attendance this day - - - 1 10 0
- 10.—The like attendance this day - - - 1 10 0
- 11.—The like attendance this day - - - 1 10 0
- 23.—Attending Court, when the Lord Chancellor directed the Registrar to put the petitions in the paper for Tuesday next - - - 0 6 8
- "This," said Mr. Williams, "is a *discreet potendus*, as it is only 6s. 8d., and neither 2s., nor 11. 10l."
- March 1.—Attending Court on three petitions; same in the paper, and called on, when the various points suggested by the Court were again argued at some length, and his Lordship promised to give his judgment this day week - - - 2 0 0
- 8.—Attending Court; but the Lord Chancellor did not give judgment according to his promise 0 6 8
- Although there had been all these attendances on the part of the solicitor, and all these promises on the part of the Lord Chancellor, the matter had not yet been brought to a decision (hear). The next petition which he had to present was that of Mr. Walter Honeywood Yates, who described himself as an individual entitled to



estates in the counties of Worcester, Gloucester, and Hereford, which, however, it was in vain for him to attempt to recover, as he had not the pecuniary means which a man ought to possess before he embarked in the dangerous voyage through the shoals of Chancery. To give the house an idea of the enormous expenses to which it was believed that proceedings in that court necessarily gave rise, he stated that a late respected member of that house, Mr. Ricardo, had left by his will the sum of 50,000*l.* as a nest-egg to provide funds for the defraying of any expenses to which his heirs might be put in the Court of Chancery, in defence of their title to the estates in question, thereby giving his opinion of what he conceived likely to be the result of being drawn by any unfortunate circumstance into that most dreadful and most vexatious of English courts. He would read the last paragraph but one in this petition to the house, because he considered it as worthy of its most deliberate attention. It was as follows:—“Your petitioner humbly submits that the means of addressing that court should be afforded to all subjects of the realm with equal facility, and that in affording such means, the House of Commons will be conferring a great benefit on the subject, which will be more sensibly felt by all classes than the reduction of any impost, or the repeal of any tax.” The next petition which he had to present, was a petition from a person of the name of Gower, who, he believed, was connected with the family of the Marquis of Stafford. The petitioner stated, that he had been left by the late Duke of Queensberry an annuity of 300*l.* a year; and declared that there was a provision in his grace's will requiring the trustees to invest, immediately after his death, as much stock in the 3 per cent. consolidated annuities as would secure in the petitioner such an annuity. Shortly after the Duke's decease, his property was thrown into Chancery by the executors of his will—a measure of which the petitioner did not complain, though he did of the delays of the Court of Chancery. This was in 1810. For seven years, though there were avowedly large funds in the court belonging to the estate, the petitioner did not receive one farthing of his annuity (cries of no, from the ministerial benches). He believed the fact to be so—at any rate, such was the assertion of the petitioner. At the end of those seven years the petitioner received one-fourth part of the arrears due to him. Three years had since elapsed, but the petitioner had received nothing more; so that there were now arrears to the amount of 1,266*l.* due to him, though the funds belonging to the estate were ample and almost inexhaustible. The petitioner calculated the loss he had suffered by the non-payment of these arrears at simple interest at 100*l.*, and at compound interest at 1400*l.* He further calculated, that if the money, as it had accumulated, had been purchased into the funds, it would at this time have made a difference to him of 2,900*l.* To compensate him for this damage, he had the satisfaction of being told that every thing was done according to the ordinary rules of equity (hear). That might be very fine satisfaction for the hon. gentls. opposite, but it was very cold comfort to this petitioner. He therefore thought his case worthy of the notice of the house, and recommended it to their consideration, with this piece of information—that many

assaults under the Duke of Queensberry's will had been compelled to hide their heads in workhouses, in consequence of the non-payment of their annuities, for which there were funds enough in the Court of Chancery, had they not been locked up by the proceedings instituted in it. The next petition which he had to present came from an individual who had applied to him with almost as much importunity as he had used towards the *rt. hon. gent. opposite*—he meant Mr. Gourlay. The petitioner stated that he had presented two petitions before, to which the house had paid little attention. He dated the origin of his ruin from the day in which he was forced to enter into the Court of Chancery. He detailed some of the struggles in which he had been engaged in it, stated that he had recently been victorious in two issues, but added, that his victories, like those of Pyrrhus, had almost been as fatal to him as defeats. He declared that the benefit of them had been nothing, and that *re'treat* from the contest appeared to him now to be the only good he could obtain. He prayed the house to assist him in that object. He said he had a manual of his own case in readiness, and that he wished the house would afford him aid to print it. The next petition which he had to present was from an individual of the name of Joseph Eastcote, who was now confined in the Fleet-prison, under an attachment from the Court of Chancery. This individual stated himself to be more than 71 years of age, and that he had been committed for not answering certain interrogatories. He had now been in confinement two years and five months. The petition stated, that before his commitment, he was living at a village near Lincoln; that he was utterly ignorant of the nature of law proceedings; and that he had trusted every thing relating to this suit to his friend Brown, and to the solicitor whom he had employed. It then proceeded to say, that certain interrogatories were filed; that an answer to them was not put in in time; and that the consequence was that he had been committed, not to the county gaol at Lincoln, but to the Fleet-prison in London, by a special messenger, at an expense of no less than 50*l.* Until those costs were paid, the contempt of the petitioner could not be cleared, and he himself could not be heard in court. For more than a year and a half, immediately subsequent to his commitment to the Fleet, he was entirely bereft of his intellects; that in that interval his friend Brown died, and that he must have died too from want, had it not been from the kindness of the Warden of the Fleet prison, and the humanity of one of his fellow-prisoners. The petitioner further stated, that he had no means whereby to defray the expenses which had been incurred in the execution of the attachment against him, though he had now put in his answer to the interrogatories. He remained in the Fleet prison at this moment, and there, he said, he must remain till the end of his life, if the house did not exercise its humane and necessary interference in his behalf. He asserted that many individuals in that prison were similarly situated, and that the course of the Court of Chancery was, not to inquire why no answer had been put in, but to proceed to imprison the offender, no matter whether his offence proceeded from ignorance and inadvertency, or from deliberate obstinacy. The only remaining case which he had to state was that of Tushbridge school: The case was

Known in the profession as "*The Attorney-General v. the Skinners' Company*;" and the object of it was to recover an estate for the school, worth from 4,000l. to 5,000l. a year. In the year 1820, the case was heard before his Honour, the Vice-Chancellor, and was promptly decided. There was an appeal, as there always would be where there was money to support it, from the decision of the Vice-Chancellor to that of the Lord Chancellor; and that appeal, after standing for just one year and eight months before his lordship, at last came on for hearing. It was heard, and the Lord Chancellor confirmed the decision of the court below, on the correctness of which he understood it was impossible to harbour a single doubt. In 1821, on another petition, the decision was the same way. The case then went into the Master's office, and there it remained two years. Death then took off the Master, and the case then went to another, who succeeded him. He had exerted himself no doubt to the utmost; but in spite of all his exertions, the matter was in Chancery still. It was now in the seventh year of its age, and how much older it might grow was a point he would not pretend to determine. The income in dispute he had before told them was between 4,000l. and 5,000l. a-year; and all parties had agreed that it should be applied in increasing the amount of exhibitions belonging to the school. One generation of boys had been defrauded of, or if that were too strong a word, had lost the benefit of these exhibitions; and another generation of boys was likely to have the same loss to submit to, for the Court of Chancery unfortunately laid fast hold of all the funds in dispute. Let the Vice-Chancellor decide promptly—nay, let the Lord Chancellor do the same; let there be doubt upon the question or no doubt, if property were involved, the Court of Chancery fixed its fangs into it; if there were money, it fattened upon it; if there were life, it fed upon it (hear). The evil was not of modern creation; it existed 150 years ago, as Butler bore testimony in *Hudibras*. For the knight, after he had tried every means to win the widow, direct and indirect,—and direct means were always the best to be pursued in such cases—after he had assailed her with all the artillery of sighs and glances,—after he had attempted to draw her into an epistolary correspondence, and had tried, but in vain, many other amatory proceedings, received the advice of his squire to write her "a love-letter in Chancery," which, he stated,

"Would bring her o'er to be his wife,  
Or make her weary of her life" (a laugh).

He would undertake to say that the widow would have consented to take in the knight, the squire, "the camp, the pioneers, and all," rather than take in that bill of Chancery, which was as great a nuisance 150 years ago as it was at present (a laugh). Relief was to be obtained through the House of Commons, and through no other quarter (hear). Of the commission now sitting he would say nothing; into Chancery it had been cast and thrown, and he anticipated that at no distant time, the house would receive a suppliant petition from the members of it, praying to be delivered from the irrelievable court into which they had been cast by the manoeuvre of the *rt. hon. secretary*. He expected no good from the sitting of that commission; in that house, and in that house alone,

could the recovery of the Court of Chancery be effected from the diseases which beset it. A committee of that house or nobody must be the surgeon to accomplish the cure. It was in vain to tell him of lawyers reforming themselves (hear)—of courts of justice sitting upon their own abuses, and flogging themselves out of their jurisdictions and their fees as *Sancho Panza* flogged himself out of his vices and peccadillos (hear). Whatever might be thought or said within the walls of parliament, the people of England knew full well that from such proceedings no amelioration of the system could be rationally expected. It was therefore incumbent on the house—for the time was now come—to take some decisive step. The *rt. hon. secretary* opposite, had got rid of 400 statutes at one blow in his attempt to amend the system of juries. He trusted he would follow up the blow and give effective support to reformation in other quarters. There was one splendid act which bore the date of the reign of James I., and which required that that house should annually resolve itself into a committee for the consideration of matters of justice. The forms of this committee still remained; no great general benefit had accrued of late times from its application. Some specific and crying grievance, it was true, had occupied attention—some partial ameliorations had been attempted—some patch of purple, or black had been applied—"Purpureus late qui splendet unguis et alter—Assuitur pannus"—

but no great leading reformation had been effected. The subject had never been considered as a whole—never looked upon with an enlarged and comprehensive eye, and therefore the microscopic glances which were occasionally taken at it, had only served to render confusion worse confounded, to bring the general system from bad to worse, and make it what it was—a disgrace to the country (hear, hear). What else but a disgrace was it, to be behind a neighbouring country, in so valuable an institution as that of law, and in such essential requisites as the expedition and cheapness of its administration? And yet this was the condition of England at this time as compared with France. When he deplored on the part of his own country this imperfect condition of her laws, he did not venture upon any thing so foolish as to propose any remedy; but whether the reformations were practicable or not, it was due to the people of England that the attempt should be made (hear, hear). The enlightened feelings of the nation were at variance with the existing system of the Court of Chancery: it put men to the blush, and stopped the channel of justice. At Athens, officers of knowledge and reputation were annually appointed, whose sole business it was to consider what reformation the alteration of circumstances and times required: they were bound to consider what had grown useless, what had grown foolish in the Athenian code, to report upon it, and to move for its repeal. Where had this country so excellent and useful a mode of revision, to chasten the pruriency which the lapse of time had occasioned in its laws? They had, indeed, in its full operation, the machinery of legislation, which added largely to the already encumbering bulk of their code, giving enough to its dimensions, but nothing to its utility (hear, hear). It had been a long established maxim, that every thing which was worthy of being attended to was difficult to be obtained; but they had instances enough in other countries of almost

his attempts being made with success in reforming old and bad institutions. The King of Bavaria had introduced an improved penal code into his dominions. They need not look, indeed, beyond the neighbouring country of France, to see the beneficial results which attended a revision of the old law: there indeed it was effected by a usurper, a man of great and singular qualities, and of great and singular fortunes—a soldier, but one, who while engaged, it could not be said absorbed, in these military achievements, had left behind him a code of law, which would eternize his fame, and form a monument to his greatness that would last, and be remembered with gratitude, when the history of his wars and the vicissitudes of his military ambition would have long passed away (hear, hear). What a great neighbouring country had so well done, might surely be tried in this. A professional gentleman had lately published a book upon the crying grievance of this Court of Chancery, in which, after quoting the Chancellor D'Aguesseau's opinion of what ought to be the constitution of a court of equity, he adverted to what that court had practically become in this country, and said, "Lord Eldon had not thought fit to follow these directions throughout the length of his reign, and had, unfortunately for the people, and for his own reputation, taken a different course." (The learned gentleman then continued to refer to Mr. Miller's book, from which he extracted, among others, the following passage concerning the Lord Chancellor:) "Perhaps he thought that the surest way to keep his place was to refrain from innovation, and this was the course he has invariably pursued since he held the office: that he will continue to do so, is not to be doubted, when we consider how difficult it is to change the habits of a man of 75 years of age. But this is a reason why an ancient person ought not to be continued in such an office. It is probable he has no conception of the sense generally entertained of his judicial career. It is one of the misfortunes of his life, that he has made mediocrity and submissiveness the passports to his favour (hear, hear). He is a grievous hindrance to the improvement of the law as a science: he has always ridiculed and resisted all fair improvements; nevertheless they are advancing; and if he remain, he will at length find himself carried away by the current" (hear). Had not these opinions been thus publicly promulgated by this author, he (Mr. W.) should not himself have proclaimed them; but when he found them thus submitted to public consideration, and that, too, at the moment he was calling public attention to the Court of Chancery, he felt himself warranted in quoting them (hear). Before he sat down, he begged to make this appeal to the character and to the sense of public duty of the House of Commons. They knew the enlightened state of public opinion, and that the country looked to them for a redress of grievances; he called upon them not to act upon the opinions of lawyers, who were under the influence of narrow professional views; but in a manner conformable to the march of public intelligence, and the glorious progress of arts and sciences: these were the signs to which they must attend, an indifference to which would convey severe censure upon those who permitted any longer the existence of a system which was as much at variance with the intelligence and information, as it was

with the happiness and justice of the country (cheers).

Mr. John Smith, without intending to cast the slightest reflection upon the Lord Chancellor as an individual, wished to state his opinion of the grievances which the people of this country, especially those engaged in commerce, laboured under, from the operation of the existing administration of justice in the Court of Chancery. The system was looked upon with terror by men of business: it was not an uncommon practice for a dishonest debtor to threaten to file a bill, which would terrify the creditor into suffering the greatest impositions (hear, hear). He could state a fact in illustration of this, which had happened in his own affairs. He had lent a sum of 4500l. to an individual, on the bond of a most respectable surety. The bond fell due 18 months after this loan, and when application was made to the surety for payment, the answer was, "True, I signed this bond, but I do not now owe the obligor so much; I have since had other transactions in money matters with him, and now only owe him 4000l. instead of 4500l, and that is all which I shall pay." Thinking this answer very extraordinary, he (Mr. Smith) took the bond to his solicitor, and stated the circumstances; when he was informed, as he had expected, that the subsequent pecuniary affairs between the surety and obligor, had nothing to do with the original obligation of the bond as affecting the obligee who had advanced the money; and his solicitor offered to serve the surety with a notice of action for the recovery of the debt, but headed, "Just as your claim is, this man can apply to the Court of Chancery for an injunction to restrain you from proceeding at law; and though he must ultimately be defeated with costs, still my costs, that will ultimately fall upon you in the progress of this litigation, will probably amount to more than the 500l. at issue" (hear). Startled at this prospect, he accepted the 4,000l. and put an end to the matter (hear). In another case, he had acted as one of the assignees of a bankrupt; a defendant had converted a matter of business into a suit in Chancery; and that suit had lasted for 23 years (hear, hear). When he named the period of its duration, he meant not to cast any blame in the particular instance upon the Lord Chancellor, for he believed no judge would have been competent to have settled so voluminous a mass of accounts. Ashamed of this delay, and happening to meet his hon. friend Mr. Baring, who was a creditor upon the estate, they consulted what had better be done to relieve the parties from their existing difficulties. His hon. friend then sat down to unravel the accounts, and in three hours put into order that which the Court of Chancery had failed to do in 23 years (hear, hear), and assisted in terminating the litigation. He suspected that there was something inherently wrong in the whole form and nature of the Court of Chancery. The system, he was persuaded, was in itself erroneous (hear, hear). Let any man who had ever read a bill in Chancery—the bill in the case to which he had alluded—was as bulky as the table before him (alluding to the large table on the floor of the house)—let any man who had ever read such a bill, say whether he could understand its import? It abounded in words, but they were words without corresponding ideas—the whole bill was constructed in a language used two centuries ago. Ought

this form to be continued? But, independently of its incompatibility with common sense and justice, he objected to the system, on account of the enormous power which it vested in the hands of the lawyers. In a facetious periodical work, called "The Covent-garden Journal," published by Fielding, he said, "It is erroneous and foolish to think that the English government is only composed of three estates, meaning those of the King, the Lords, and Commons: there is a fourth estate—the mob" (a laugh). It was true, as the writer had put it, that the mob had considerable power at the time when he wrote; but a great change had since taken place; the mob were dispossessed of their power, and supplanted by a different class. He (Mr. S.) would, in defining the government, describe it to have four estates—the King, Lords, Commons, and the Lawyers (hear, and a laugh). The lawyers were legislators—they made new laws, and their *dicta* had the force of enactments. When his learned friend (Mr. Williams) had touched upon the reformation of the French law—when he had alluded to the genius of Bonaparte, whose code of law he had truly said would serve the memory of his conquests and his crimes, he had omitted to praise it for one of its most essentially useful qualities. That law, if not so purely administered as the British, was at least more readily afforded to the suitor, and twenty times cheaper (hear). This forced upon their attention the comparative demerits of their own system, and it was a case in which every individual in the land owed it to his country to state what he felt and knew upon the subject (hear, hear). When he said thus much, he repeated that he meant not to disparage the Lord Chancellor. He knew that learned lord laboured harder in his office than any other judge: he believed he devoted much more of his time to business, and much less to pleasure, than any other man; but he equally believed that his whole system was bad, and required entire revision (hear, hear); a revision, too, which he did not expect from the commission which had the business in hand, for he knew that the members of it were unable to do what was essentially necessary for a beneficial change, namely, to turn the system itself upside down: to that they must come, before they could accomplish the reformation which was called for (hear, hear).

Mr. *Ellice* had been long aware of the grievances attending the system of business in the Court of Chancery; and had as those cases were which had just been brought to light by his learned friend (Mr. Williams), he believed they were trivial in comparison of those which could be brought forward by many individuals connected with the trade and industry of the country. He was also convinced, that no good could arise from the labours of the commission appointed to inquire into the affairs of the Court of Chancery: besides having persons of legal knowledge, it ought to have had the assistance of men of business. Why did not the Court of Chancery, in matters of accounts, adopt the practice of the Civil Court? There such matters were referred to the registrar, assisted by mercantile men (hear), who sat continuously until they made their report. If an improvement could be made in the administration of the affairs of the Court of Chancery, it ought to be made quickly and efficiently; and he begged to direct their attention to one point of

practice which he knew to be attended with very injurious consequences—he alluded to the investing money in Chancery: it was a hopeless task to manage the money of others when it became once deposited there. He had represented the grievance of such a case some time ago to one or two of his Majesty's ministers, and the monstrous inconvenience and loss which it imposed upon the guardians of minors. He could more particularly speak of one case, in which he was himself, for his own security, obliged to lodge the money of children, the eldest of whom was only eleven years of age, in the Accountant-General's office. There was the evil—the party lodging money in the Court of Chancery, had no option; it must be invested in the three per cent. stock, at 94 or 95—so that it was not impossible, before the eldest child became of age, the stock would fall to 50 (hear). Above 30 or 35 millions of property were sunk in that disadvantageous manner—an amount nearly equalling the whole floating debt of the country. Why not allow the suitors the benefit of investing the money so as to obtain a sort of exchequer-bill interest? In a case in which he was personally concerned, it had been required of him to make an affidavit for the satisfaction of the court. His affidavit was deemed inadmissible, and his succeeding attempts were equally abortive. His solicitor then tried, and after him, his counsel; but their efforts were equally unavailing. The point was of little importance, but after the court had refused to admit five successive affidavits, it at last accepted and was satisfied with that which was first made. The property in dispute was about 1,500*l.*, and the expenses of litigation amounted to between 300*l.* and 400*l.* A good deal had been said of the Lord Chancellor, but he thought it not right to throw the odium of this branch of the judicial system upon the individual Judge. Let the *rt. hon. gent. opposite* (Mr. Peel) follow up what he had already done, in reforming abuses in the administration of justice (hear, hear). The blame ought not to be cast upon a single individual, who, if he had the disposition, had not the power to remedy them (hear).

The *Solicitor-General* said, that before he noticed the observations of his learned friend (Mr. Williams), respecting the constitution of the Court of Chancery, he would advert a little to the five petitions upon which he had chiefly founded his speech. His learned friend had, properly enough, abstained from vouching for the accuracy of the statements in those petitions; and, indeed, it would have disparaged his understanding, had he done otherwise. Mr. Palmer's petition came first in order, and related to some alleged abuse in what was called "the Elephant and Castle charity." In the Elephant and Castle charity, the Dean and Chapter of Canterbury had formerly possessed the property, and they still held the right of visitation; being, in fact, according to the settlement at the Reformation, entitled to a reversion of the property. Their claim, however, could not so easily be brought into consideration, because the affairs of the Dean and Chapter must undergo discussion in the Diocesan Court in the first instance. The consequence was, that the cause was only ripe for judgment in January last. But this was not all. The convenience of counsel, as in every other court, was consulted in this; and many of the delays of hear-

ing must be set to the account of their accommodation, which was equally called for by the courtesy of the judge and the interest of the writers generally. It was not very surprising that, under these complicated accidents and causes of delay, 50l. should have been laid out in the expenses of the hearing. The next petition was that of Mr. Honeywood Yate, who by his absurd and preposterous suggestions, would have the House to believe, that the late enlightened Mr. Ricardo had left 50,000l. upon some contingency of litigation; but if it were so, that circumstance would furnish no reason for inferring that the expense of a Chancery suit would be 50,000l. The fact was, that at the time that Mr. Ricardo made the purchase of his Gloucestershire estate, the title was disputed by this Mr. H. Yate, and it was to defend the estate from that particular claim that Mr. Ricardo set apart the 50,000l. But if there were any justice in the claim, Mr. Yate might sue in *formd paparia*. The third petition from Mr. Gower was more preposterous than the others. He was an annuitant upon the estate of the Duke of Queensberry along with other creditors, whose united claims amounted to 400,000l. The Duke of Buccleuch obtained judgments in the Scotch courts against the estates for 100,000l., the amount of fines improperly levied. In the common course of proceeding the creditors could have had no claim to a settlement until the final decision of the appeals in that which was well known by the name of the Queensberry cause. An accidental rise in the funded portion of the property took place, and the Lord Chancellor finding that he had it in his power to do something for the creditors, and yet leave enough to answer the suit of the Duke of Buccleuch, and make compensation to the tenants, went out of his way to do them this service, and ordered a dividend of one half to be paid them. The next petition was from Mr. Gourlay, who was a madman. Mr. Kesteven had refused to put in an answer to a bill, and for that contempt of Court had incurred the expense of an attachment. He probably would wish to have a Court of Chancery that could not imprison delinquents. Such were the petitions which his learned friend had thought proper to present. Mr. Gourlay had no objection to a Court of Chancery which would decide quickly, however atrociously. Mr. Gower wanted a Court of Chancery which would pay him his debt out of other money than that which belonged to his debt. Mr. M. Yate wanted a Court of Chancery which would allow him to defer his claim to an estate till twenty years after the decease of the purchaser. Mr. Palmer wanted a Court of Chancery which would allow him to proceed on judgment upon any petition however crude, irregular, or infernal. The learned gent. had intrusted something of the plan of his attack on the Court of Chancery, whenever his day should come, by the assertions which he had made of a usurpation effected by this court over the powers of the other jurisdictions. This was at variance with the fact, as might be proved from the circumstance, that from the time of the dispute between Lords Coke and Hilcomb respecting the remanding of a cause into Chancery, after verdict in the Court of King's Bench, no question of jurisdiction had arisen down to this time. The Court of Chancery had from time of human memory,

exercised the same jurisdiction which it possessed now. The learned gent. must have forgotten his historical reading, when he said that no such jurisdiction had ever been known in any civilized country. In the constitution of republican Rome at the brightest period of her history, the Pretorian Court held a controlling and corrective power over the judgments of common law. The Court of Session in Scotland acted as a Court of Equity in those cases of unperformed contracts, which could not be brought within the proper cognizance of the common law, just as Chancery enforced specific performances and execution of contracts. In fact, the distinction of law and equity had always prevailed in civilized states. He contended that this was not the proper time to take the evils of the jurisdiction, whatever they might be, under their consideration, while they were without any information from the commissioners who were appointed to inquire into it.

Dr. Eddington, with a view to justify the delay in the report of the commissioners, said they were almost all men engaged in the duties of judicial situations, or the practice of their various courts. Few were the days which any of them had free from avocations, and fewer those upon which they could collect a full meeting. The Vice Chancellor, upon whom they had entirely depended, had been withheld from co-operation by long and severe illness. Another highly intelligent person had declined acting. He was himself most anxious for the fulfilment of the duty which had been imposed upon him, though he feared that the undertaking was beyond his powers. He was anxious, too, that the House should not be led to expect more from the commission than the persons delegated were able to effect. Those powers were very limited. Their inquiry into the practice did not allow them to consider the law of that court. It only went to a review of the forms of proceeding from the first commencement to the final issue. The other branch of their inquiry was only directed to ascertain whether some of the functions of this jurisdiction might not safely be separated from it, and given to the other courts. Had the commission directed an inquiry into the whole system of Chancery, he must have hesitated much before undertaking a task so greatly above his ability. He did not mean to say that it was actually impossible, or that it was not desirable to reform the system; but this commission could not effect it. He could have no doubt that much beneficial alteration might be effected in many branches of the law of England. It was not possible, for example, at present for the Court of Chancery to order a trial by jury to determine whether a settlement of personal property by will was made by a person of sound mind, though it had the power of doing it with questions of real property. It would be desirable to pass an act to give the Court of Chancery that power with which it was not now invested by law. He had had very considerable experience in the affairs of wills, and, though it would be seriously against his own interests, he must say, that such a regulation would benefit the country at large, and lighten the business of the courts. Very considerable abuses were manifest in the law which regulated the transfer of real property. He could not allow that there was any rational ground for a system, which

required, in making out the abstract of a title, eight hundred brief sheets, prepared, as he knew the fact to be, by one of the most honest solicitors in London. This gentleman had found it impossible, with safety to his client, to compress the abstract of a title to an estate in less than eight hundred sheets. He wondered that the country gentlemen had not given their attention to this subject. If they considered what an enormous tax it levied, in the course of years, upon their property—the expense of stamps alone which it brought with it—and the dangerous intricacies which rendered their possessions wholly insecure, they would not remain satisfied. He knew of no reasons sufficient to justify its continuance. A system of laws contrived, when the personal property of the kingdom was not one-five-hundredth of the real property, and when all property passed by rude conveyance, almost from hand to hand, could never be suitable to a period when commercial wealth and its transactions so infinitely transcended the value of all the real property in the kingdom. How, then, were they to proceed in this matter? He had always thought that a commission, such as was here called for, ought to consist of persons selected from a variety of the professions and classes of society, so that it should possess a combination of the talent and learning of the lawyer, the enlarged and enlightened views of the statesman, and of all the practical knowledge and acquirements of the merchant (hear). Such a combination as this should be concentrated, and brought to bear as much as possible on the great object of framing such a system of laws as might enable the subjects of Great Britain to obtain—what at present they could not obtain—justice cheaply and expeditiously (cheers). It was not his intention on this occasion to enter into any examination of what had passed heretofore in any of our courts of justice; much less did he mean to go into any examination of the faults of those who had presided in those courts. His object as a lawyer and a member of parliament was to find out where the evil existed, and to attempt to discover and apply a remedy for it, rather than to fix the blame on particular individuals (hear).

Mr. M. A. Taylor said, it was now long since he had first attempted to prove that the defects in the system of the Court of Chancery, and the appellate jurisdiction of the House of Lords, amounted to a denial, and indeed a complete subversion of justice. The reports of the committee appointed to inquire into the nature of those evils stated, that so rapidly were causes accumulating at that time in the jurisdiction in question, that it was judged they could not be disposed of in less than 25 years. This was stated in both Houses of Parliament, and was not contradicted in the House of Lords. The public had been seriously aggrieved by the proceedings in the Court of Chancery; and this he would say, notwithstanding that he had the honour of being personally acquainted with the Lord Chancellor, and believed him to be one of the most upright and honourable minded men in the country (hear). With regard to the appellate jurisdiction, he (Mr. T.) had proposed some years ago to provide assistance in the House of Lords, either by an additional number of Lords for the determination of appeals, or by the appointment of an additional judge in that jurisdiction. After a twelve years' hard

struggle, Lord Gifford had been at last appointed to preside with the Lord Chancellor at the hearing of appeals (hear, hear). The effect of this arrangement had been, that the lords had reduced the number of appeals in an astonishing degree, and were proceeding with them in a manner that reflected upon them the highest credit (hear, hear). Why should not some beneficial arrangement of a similar nature be adopted in the equity jurisdiction? He was not the individual who moved the question in respect of these delays in Chancery; but had been present on that occasion, he would not have consented to such a commission as was then named. For who was nominated at the head of it (hear, hear)? The very individual whose conduct was complained of as tending to encourage those delays (hear). The fact was, that as it existed at present, this chancery jurisdiction was perfectly detested throughout the country (hear); and in an age like this, such cumbrous forms of proceeding could not much longer be endured. Bye and bye there would be that acceleration effected in the business of chancery, that he would scarcely despair of seeing a steam practice introduced (laughter). He knew an amicable suit which had been before the court 33 years (hear, hear). It was admitted by the best and most experienced practitioners, that under some circumstances, to recover a property of 3000l. out of Chancery, would not cost less than 1500l. (hear, hear). What was such monstrous injustice as this owing to? To the immoderate amount of fees accruing and accumulating upon such long delays (hear.) He could scarcely imagine why it was that the Solicitor-General should quarrel so much with that case of Mr. Palmer, which had been mentioned before that evening. Mr. Palmer's case had been depending or hanging up three whole years.

The Solicitor-General begged pardon; two years only.

Mr. M. A. Taylor—Only two years (a laugh). Then on the learned gent.'s own admission, it was another case to prove the hardships that were produced by this fatally constituted court. The Fleet and other prisons of the metropolis, which he (Mr. T.) had visited, contained numerous victims, without clothes, and almost in a state of despondency, who would not have been in those melancholy abodes, and in so wretched a condition, but for the injuries which they had suffered through the Court of Chancery (hear). Perhaps the house was already aware of that affecting case of the two widow ladies, who were interested in a property, which an attorney managed to hang up in Chancery. Pending the proceedings one of the ladies died at the age of 81, nine years after she became invested with the right to a beneficial interest in that property. Her sister, too, survived her only by about half a year (hear, hear). With respect to the inefficiency of the commission he alluded to, and the causes assigned for the long delay of its report, he would only say, that if some of the members were incapacitated from attending it by reason of professional or other engagements, they ought never to have been placed upon it. Without some vigorous struggle on the part of the house, no good would be done in the business (hear).

Mr. Peel would not have said a word upon the question but for the direct allusions which had been made to him. The learned gent. had

indicated that he (Mr. P.) wished to impede or defeat the objects of an inquiry into the delays of Chancery. He denied any such imputation (hear); he wished for a full and open inquiry into the whole practice of the Court of Chancery. He denied that any inference to the contrary could be drawn from the manner in which the commission of last session had been constituted. Government had good reason to adopt that sort of constitution, from the success with which the Commission of Inquiry into the Judicature of Scotland had been attended (hear, hear). It was but the preceding evening that he had heard that commission very highly eulogized in that house, and yet it was composed entirely of lawyers—the very men whom the learned gent. thought to be the most unfit to be admitted upon committees of that kind, but who were in such commission associated with judges, as the best qualified to report on the condition of their own judicature. He had a much higher opinion of the conscientiousness and integrity of lawyers than the learned gent. opposite, who ought to know them so much better, seemed to give them credit for (a laugh). An hon. gent. had argued that a Mastership in Chancery was disabled from conducting any inquiry into matters of accounts because he was not an accountant. It was very odd, on the same evening, to hear it contended by the learned member that a man was disabled from inquiring into questions of legal proceedings because he was a lawyer (hear, hear). What possible object could he (Mr. P.) be supposed to have, if not a full and candid examination of this subject? He owned that he had hoped ere this, that the report of the commissioners would have been made (hear). He thought, too, it would have been much better had they determined to report in the first place on some specific branch of their inquiries, instead of waiting to prepare their general report upon the whole of the topics embraced by the commissioners, because it was evident that any such general report on the Court of Chancery, must of necessity be postponed for a considerable time. When he considered that these commissioners had already sat 70 days (hear); had examined 45 witnesses; and had rejected no witness who came forward voluntarily to tender his evidence or to furnish information; when he reflected that they had their own avocations also to attend to, and knew that it was their intention to publish the whole of the evidence taken before them, and not merely their general report upon it; what object could he have in view but a full and perfect examination? But what were the names which he found in this commission? There was the noble and learned lord at the head of his Majesty's law officers: could any thing like a toleration of unfairness or disingenuousness be dreaded from him? If the guarantee of his noble friend's integrity and character were insufficient to ensure the public confidence in this commission, would it not be confirmed even by the names of others who were his colleagues? Was there not the learned member for Ilchester (Dr. Lushington), whose speech of that evening had so well attested the manly independence of a mind that would not suffer any thing like evasion, or a want of faith, in any such inquiry as that which was the object of the commission (hear). The terms of the reference had been complained of as too much li-

mitting the powers of the commission. But they were as comprehensive as those of the learned gent., "Inquiry into the delays and expenses of the Court of Chancery, and the causes thereof." The object of the commission of last session was thus stated, "Inquiry into the forms and process of a suit, from its first institution to its close." These terms surely opened every detail connected with the system of Chancery proceedings and the Chancery Court (hear). The reference then proceeded—"and whether any part of the present jurisdiction of the court can be removed" (hear). With respect to what had been said about the present defective state of the law as to the transfer of landed property, had he (Mr. P.) referred any such extensive subject to that commission to report on, besides its more immediate inquiries, would he not have rendered himself liable to the charge of purposely doing so, with the view of withdrawing and diverting the commission's attention from the great objects of its labours? If, indeed, that law could be altered, let it be altered; for it was due to the increasing wealth, and to the commerce, and to the property of the country, that a law regulating the transfer of real property should be left in no state of uncertainty or defectiveness. So much in answer to the objections touching the constitution of the commission. But when the learned gent. quoted *Hudibras*, to show that 150 years ago the same delays were charged against the Court of Chancery as now, it should appear that 13 months was no unreasonable period for the preparation of a report upon the nature and effect of those delays.

Mr. *Hume* referred to a passage in Mr. *Müller's* book on the abuses of Chancery. That author stated that it was in vain to hope for any reform or improvement in the system, so long as the power and patronage of a vast number of offices, such as the six clerks, master, curators, &c. remained in the hands of the Lord Chancellor, who thus disposed of numerous posts, some of them mere sinecures, the united salaries of which amounted to not less than between £200,000. and £300,000. a-year (hear). The learned lord had appointed a near relation of his own to no less than six situations.

Mr. *Brougham* did not expect any satisfaction, from the partial report of the commission appointed to inquire into the state of chancery practice, of which report the learned gentleman (the Solicitor-General) had, he believed, given the exact description it would deserve, when he said he expected that it would be very unsatisfactory to all parties (hear). The powers of countenance possessed by the learned gentleman were very great, as were those of every gentleman who practised in Chancery; but he was quite convinced that the learned gentleman would find it impossible to retain the gravity of his features, if he declared that he expected the Chancery Commission to effect much benefit (hear). It was wrested from government by the force of public opinion, and by the expression of it which had been heard within those walls; but the objects which those who called for it had in view were entirely frustrated. The learned gentleman, in speaking of the Catholic relief bill, had said with regard to one of its provisions—that which was intended to control the correspondence of the Catholic clergy with the see of Rome,—  
"Was ever any thing so absurd! a popish

board to examine the despatches of the Pope! This is just as absurd, as if a charge having been advanced against the Chancellor of the Exchequer,"—by the way, it is strange that the learned gentleman should have stumbled on a Chancellor (a laugh).—"he were to request that a commission should be appointed, under the great seal, or under the seal of the Exchequer more properly, to look into his proceedings; that commission to consist of the secretary for the Home Department, the secretary for the Foreign Department, and so forth, those individuals being his colleagues in office. What would be thought of the Chancellor of the Exchequer if he acted thus?" Undoubtedly, such a proceeding would be very absurd, and very unsatisfactory; it would be a monstrous proposition—a great mockery. But certainly not so monstrous a proceeding, not so gross a mockery, as if they put the Chancellor of the Exchequer himself at the head of the commission (hear, hear). And yet the commission he was now speaking of was exactly of that sort (hear). That commission was appointed to inquire into the practice of the Court of Chancery, and the abuses thereof, and whether those abuses were owing to the system itself or to the conduct of John, Lord Eldon, the individual at the head of the court. And who was to decide? Who was called on to control those abuses, and to carry into effect the wishes of the legislature? Why, John, Lord Eldon. Most truly, no man knew better than he where the fault lay, if he wished to speak; but when he and the commission, of which he was the head, remained silent an entire year, to say that he entertained any hopes from their proceedings, would be to treat the House of Commons with a degree of levity at variance with the gravity they deserved (cheers). He (Mr. B.) expected nothing—absolutely nothing—he had got all he expected; he could not have got less (a laugh). Something has been said of the Scotch Commission; but that was widely different from this; for there were men coming from another country, free from local prejudices—men, too, under the control of a most superior man; above all, a man like Lord Eldon (hear); for although he (Mr. B.) conceived him to be a very bad man to correct the abuses in his own court, yet, if he wanted a persevering investigator into the faults of others—a rigid inquisitor (loud cheers)—he would do the talents of the learned lord the justice to say, that he did not know a person more eminently qualified for the office both as a subtle lawyer and an acute man (loud cheers). If he were a judge in any other court but his own (there he might shelter him (Mr. B.) with his protection,) but were he a judge in any other court in England, Ireland, or Scotland, he could not name the man by whom he should less like to be scrutinized (hear, hear). No man living would be less disposed to spare the faults of others, or more firmly determined to deal out even-handed justice towards the lapses of other institutions, but he was not the man to reform the abuses of his own court (cheers). In the olden time, there was a certain Pope at Rome, who requested the cardinals to judge him for certain offences, which he confessed he had committed: delays of justice (a laugh). The cardinals exclaimed they could not judge him, because he was the head of the church, but added, *Judica te ipsum*: in the anguish of his mind, he exclaimed, "*Ju-*

*dica me cruentum*." The sentence was executed; for history informs us, that "*Judicatus fuit, cruentus fuit, et sanctus fuit*" (much laughter). Now, he, (Mr. B.) much doubted, whether the learned lord would not have certain conscientious scruples against following the example of a Pope of Rome (a laugh). Nothing but the hope of a subsequent sanctification, could prevail upon him to adopt the precedent; and even with this flattering prospect before his eyes, his interest in the estate for life being superior to his love of country, and the purification of his own soul, might not induce him to sacrifice the possession (much cheering and laughter).

Mr. J. Williams in reply referred to Blackstone, to prove that the ancient law-writers did not allow that extent to the Court of Chancery which was now contended for. He objected strongly to the two jurisdictions possessed by the Court of Chancery; and concluded by observing, that if he had thought proper, he could have brought forward much stronger cases than even those which he had laid before the house that evening.

The petitions were then laid on the table, and ordered to be printed.

TUESDAY, JUNE 7.—Sir Francis Burdett moved "That an humble address be presented to his Majesty, praying that his Majesty would be graciously pleased to cause the evidence taken before the commissioners appointed to inquire into the Court of Chancery to be laid before the house."

Mr. Peel believed it was without precedent that a committee should be thus called on to report the evidence taken before it, without the opinion or determination at which it had arrived on that testimony. Unless the hon. bart. could lay some much stronger ground for his motion than he (Mr. P.) was yet aware of, he could not accede. It seemed to him, moreover, that no kind of public good could be derived, under present circumstances, from the production of this evidence; and he should even object to a more modified proposition—for instance, to the production of any separate portion of the evidence that might be expected to have been taken before this committee. Supposing that this evidence could be printed in the course of the present session of Parliament, within a fortnight or three weeks, could any public measure, even in that case, be founded upon it (hear)? The commission had already sat seventy days, and had examined five-and-forty witnesses; and it was to be presumed they were unprepared for the hon. bart.'s motion; so that a considerable time must necessarily elapse before the whole of the evidence which they had taken could be copied out and prepared. Even after it should have been printed, it might readily be imagined that members would require some time properly to digest and consider it; for without time, how could they be prepared to form an opinion on such important matters? He could not help thinking that it would have a very prejudicial effect to publish this evidence without the statement of such measures as the commissioners might feel it expedient to recommend upon the result of their investigations. He considered this inquiry as an extremely valuable and important one; and he utterly disclaimed all imputation of opposing the motion of the hon. bart. with-



any view to conceal the evidence which might have been taken before the committee. He seriously, and upon his honour, assured the hon. bart., that he earnestly hoped some efficient remedy might be provided for the evils which he believed to be occasioned by the present condition of the Court of Chancery (hear, hear). Without meaning, in any degree, to impute blame to any body connected with that court, he certainly could not hear these serious complaints of the dreadful delays of Chancery, without believing as an honest man, that those delays must be effectually remedied and provided against in future (hear, hear). He trusted that ere long the house would be in possession, not only of a careful, but of an ample report on the subject; and though he certainly could have wished that the commissioners would have rather reported, from time to time, on separate points of their inquiry, than have waited to produce a general report upon the entire objects of their commission; yet it would, in his opinion, be highly unadvisable now to interpose, when the completion of their labours might be so speedily anticipated. He had very recently had communication with an individual who, as being at the head of the jurisdiction in question, might be supposed by many to feel, in some degree, personally interested in this matter; but who, in reality, as he (Mr. Peel) conscientiously believed, felt no concern of that kind—he meant the Lord Chancellor (hear); and from what that noble lord, and, indeed, other members of the commission, had told him, he did unquestionably believe that a full report, including the evidence, might be printed before the next meeting of parliament. Now, if the fact were so, and if there could be no time in this session to allow of any measure, founded on the right hon. baronet's motion of that evening, to be produced to the house, he thought he must have satisfied the hon. bart. himself that it could not be proper for the house to accede to that motion. On these grounds, the house would perceive, that if the motion of the hon. bart. were carried, it would amount to a virtual superseding of the committee. He (Mr. Peel) had not the slightest objection, in the meantime, to produce the commission under which the commissioners were appointed and empowered to act, in order that the house might see what were the terms of it, and who they were that had been selected to discharge its duties (hear),—but he was compelled to resist the premature publication of the evidence.

Sir F. Burdett, notwithstanding the arguments which the rt. hon. gent. had just advanced, could not help thinking that so long a time having elapsed since the appointment of this commission, it was highly important the house should have before it, forthwith, the evidence which the commissioners had obtained. As to the commission itself, he meant not to impute any blame to it on account of the delay which had already taken place: but the individuals composing it were persons whose professional and other avocations could scarcely have left them sufficient time to perform the duties of commissioners with sufficient diligence, compatibly with the duties imposed upon them by their private pursuits. For this reason he complained of the constitution of such a commission (hear, hear). When he saw at the head of it the Lord Chancellor himself, he must say that the principal who presided over the very sys-

tem out of which the delays arose, was not exactly the party who should be placed over a commission intended to remedy that which the learned lord might perhaps not consider an evil (hear). But the powers of those commissioners were extremely limited, and by no means going to the root of that evil. They went to the investigation of the practices of subordinates in this court; but not of the construction and nature of the court itself (hear). Now, since the committee had been so long employed in collecting information, it was proper that the house should be made acquainted with their proceedings. The evils to be inquired into were so extensive, so universal, that there was hardly a family in the kingdom which had not been embarrassed by their baneful operation. It was not so essentially necessary for the house to be in possession of the opinion of any set of commissioners, as to find out, upon the evidence offered to them, some speedy relief for evils, which from day to day were going on, increasing in number and amount, and becoming more and more oppressive on the subject. The business of the Court of Chancery was from day to day increasing. But its proceedings were not regulated by the common law of the land: it was altogether a sort of stolen-in jurisdiction, affecting to proceed on the principles of the civil law, but really acting on a system that was repugnant to the principles of common law, and, he might almost say, of common sense (hear). It was obvious, that one great remedy which might be applied to the evils occasioned by the present constitution of this court, would be to provide for its proceeding upon principles of the common law (hear). If, instead of all that immense mass of affidavit evidence—if, instead of the Lord Chancellor's directing voluminous written statements to be prepared, and circuitous proceedings by interrogatories, when, perhaps, the man might be sitting under the very nose of his lordship who could explain the transactions in question before him—if this practice were done away, and the rule of the common law and of common sense were resorted to, of taking the best, and not the worst, testimony that could be obtained—of preferring oral testimony where it could be gotten, to artfully fabricated depositions—then, indeed, something like permanent good would be effected (hear, hear). The Lord Chancellor, however industrious he might be, however desirous to obtain information, however conscientious, was bound to observe the proper means for enabling him to form correct and accurate judgments (hear). By the existing modes of dilatory proceeding, under which a person was not considered bound to attend until he had been summoned three times, and by all those means which enabled a party, on paying up his fees punctually, to go over so many seals—a dishonest man, who could afford such measures, had it in his power to impose upon others the necessity of following him through a course of almost heart-breaking litigation. If a whole year had been employed in collecting information only about the fees of Chancery, enough had been done to enable parliament to proceed on the evidence taken before this committee. If the other avocations of the Lord Chancellor did not give him time to attend to the business of the Court of Chancery—a fact which was roundly stated,—let us have judges enough to do the business properly; let us not be placed

under the necessity of pursuing justice by such dilatory and expensive methods (hear, hear). With respect to bankruptcy cases, some new provision ought to be adopted. There was not a more fertile source of abuse than the manner in which commissions of bankruptcy were sued out and prosecuted. In this department, there were no less than seventy judges, who might or might not attend at their pleasure, and hence a most ruinous delay was frequently produced. Those seventy places were in the gift of the Lord Chancellor; and they were generally bestowed upon young barristers to begin with; for no one would say that those who filled them were selected on account of their abilities, or peculiar fitness for the situation (hear). If there were only seven, or only two courts, attended by persons who would give themselves up wholly to the business, that business would be better done, and justice would be more speedily administered, than it was at present by this multitude of assistants. Twelve months ago a commission had been appointed to inquire into and to report on the practice of the court of Chancery. No report had yet been made, and the *rt. hon.* govt. now declared that it would be detrimental to the public to produce the evidence taken before that commission. He could not, however, perceive that any mischief was likely to be produced by placing that evidence before the public. It appeared that in the courts of Equity, the expense of procuring justice was much greater than in any other quarter, and it certainly was proper that the house and the public should get possession of every circumstance which could by possibility guide them to a remedy for so serious an evil (hear, hear). The first thing which ought to be placed in their hands was not the report of the commission, which appeared to him to be of no importance, but the evidence taken before the commissioners. That evidence ought to be produced immediately. So far from delay being advisable, he was strongly impressed with the idea, that much mischief would be occasioned by withholding the information which he now moved for. He relied on the good sense of the house for supporting this motion to make the evidence public. The minds of men, generally, and more especially the minds of members of parliament, would be directed to the consideration of those remedies which the nature of the case called for (hear, hear).

Mr. *Hurst* expressed himself in favour of the motion. In a suit in which he was engaged, and which he eventually succeeded in gaining, he was obliged to pay *8l. 17s. 6d.* for every *10l.* he recovered (hear).

Mr. *Peel* said, if the *hon. bart.* renewed his motion very early in the next session, he certainly would not oppose it. He had no desire to perpetuate abuses of any kind. This he had shewn by his bill to repress frivolous writs of error.

Mr. *Denman* observed, that the bill for repressing frivolous writs of error was brought in on account of the notoriety of the evil which it was meant to correct; and this was a sufficient reason for the production of the evidence now required. It might be true, that no such proceeding as that now adopted by his *hon. friend* (*Sir F. Burdett*) had ever before been resorted to in that house; but the question was, whether the circumstances of the pre-

sent case did not fully justify it? An *hon. member* who had recently spoken, stated, that he had been charged nearly *9l.* for the recovery of *10l.*; and on the last night when this subject was before the house, two or three gentlemen had related to him cases of amoultants as to whose right to recover certain sums of money no doubt existed, but who were unable to procure that to which they were entitled; until several of them joined to defray the expenses of an amicable suit. Many of those persons might die before a decree could be obtained; but, at all events, such delay must be a disgrace to this enlightened country. In the city, if an individual had a claim upon a small quantity of stock, placed in the name of executors, although there might be no doubt as to the right, still the answer was, "We cannot pay it, until you have instituted a suit in equity" (hear, hear). In many of these cases the attorneys said, "Don't move in such a suit, for the costs will carry away all the money" (hear, hear). These were matters of notoriety—matters long before the public, and they called loudly for legislative interference (hear, hear). Certain he was that these evils, tremendous as they were, would never be rectified, unless the members of the House of Commons applied their minds to the subject—unless they took the matter into their own hands (hear). In the year 1823, the *hon. member* for Lincoln (*Mr. J. Williams*) turned his attention to this subject. The friends of the Lord Chancellor opposed, and the motion was lost. In the following year, it was defeated by the *rt. hon. Secretary of State*, who proposed that a commission should be appointed to carry into effect the object which his learned friend (*Mr. J. Williams*) had in view. Commissioners were appointed; but up to this period they had made no report; and, in his opinion, they were not likely to make one for some time. It appeared that they had sat for seventy days, and had examined forty-five persons. They must, in such a period, and from so great a number of persons, have elicited much information which it was desirable the house should be possessed of. But they were told that some difficulty existed with respect to getting it through the press in time. He, however, believed that the evidence might be printed in three or four days. It had already been lithographed, and any person might have it. In fact, it was public, and he should be very sorry if it were otherwise. But this sort of publicity was not like placing it formally before that house (hear). He would quote a short extract from the evidence given before that commission, by a barrister, which would show of what importance that evidence was. The barrister was asked, "Whether he had ever seen the misery of those who had been obliged to embark in Chancery suits, and whose hopes had been delayed and disappointed?" He answered "No; I see no such things. The solicitor passes between me and the client. I can only speak of the probability of misery being created by those delays. But this I know, that after long litigation, the order of the court has been often drawn up to divide the remnant of the property, not for the benefit of the litigating parties, but in part payment of the solicitor's bill" (hear, hear). Surely the house could not be aware of such monstrous cases, without feeling the necessity of applying, and speedily applying, some effectual remedy.

(hear). A distinction was attempted to be drawn on this occasion, founded on the circumstance of this inquiry being conducted by commissioners. Now, he could not see what distinction could fairly be drawn between commissioners appointed by the crown, and a committee nominated by that house. Yet, in the latter instance, the evidence given had been considered a fit subject for legislation, without waiting for any report. Thus it was with respect to the committee on the state of Ireland. Such, he believed, was also the case with reference to the committee on the combination laws. A great deal of the evidence given before them consisted of complaints made by the masters against the journeymen, and the committee, he understood, were unwilling to hear any evidence on behalf of the journeymen (no, no). He understood the committee were ready to propose a severe law, before they heard what the men could advance in support of their conduct (no, no). Such, certainly, was the report. If evidence had been given before the commission, with respect to subpoenas, or any other process of the court of Chancery, he thought it was quite competent for the house to legislate on that branch of the subject, without waiting for any report. When the report came, it would of course be subject to the revision of that house, and to the scrutiny of public opinion; but, in the meantime, the best way to become conversant by degrees with the great and diversified subject before them, was by the publication of the evidence now called for. There was, he knew, a great degree of tenderness manifested towards the individual who presided in the court of Chancery (hear, and laughter). This proved nothing more than the extent of his influence (hear). No man wished less than he did to give that learned old offence; but he could not help alluding to him when he heard gentlemen argue this question on the ground that no personal fault could be found with the individual who was at the head of the court of Chancery. He did not mean to say that there was any personal fault; but there might be personal fault; and that was a matter which he thought ought to be well considered. One fact alone would show the manner in which the business of the court of Chancery was conducted. In the beginning of last Michaelmas Term, 45 causes were set down in the paper to be heard in the term, and on the last day of the term they still remained on the paper (hear). Not one of those causes was touched; and he begged the house to recollect that every one of the parties connected with each cause had to pay 11. for setting it down, exclusive of incidental expenses. If there were ten parties plaintiffs, and twenty parties defendants, each of them had to pay 20s. for the privilege of not being heard. A great deal of praise had been bestowed on the Lord Chancellor because he disposed of much business by way of motion. But great interests ought not to be so disposed of. If the case came afterwards to be formally adjudicated, the hearing of it by motion tended only to instil prejudices in the mind of the judge; and if it were disposed of at once, it passed by without that solemn consideration which all cases of moment ought to receive. He wished to show that the system was not altogether to blame, and if so, the person at the head of the court ought not to escape all censure. The Lord Chancellor had been for twenty-five years a constant witness of all the evils arising from

the system, and it was a little surprising that he had made no attempt whatever to remedy those defects of which the public complained. On the contrary, he opposed with all his power every effort which had been made in the Commons House of Parliament to remove those evils. As to the other house, no attempt had been made there to lessen them in any degree (hear). The rt. hon. gent. said, that if the proposition were made next session, he would give it his sanction; but a motion of this kind, made next year, would be just as unprecedented as at present. Why, then, should he refuse his sanction now? A great degree of distrust had been created throughout the country, in consequence of the way in which the commission had been formed; and he feared that the rt. hon. gent.'s interview that day with the Lord Chancellor would have the effect of rendering that distrust still greater.

Mr. W. Courtenay said, the commissioners had to enter into a more extensive range of inquiry than gentlemen on the other side of the house seemed to imagine. When this subject was first brought before the house, he resisted the motion for the appointment of a Parliamentary committee to investigate the cause of the delays in the Court of Chancery and the House of Lords, which were so much complained of, because he thought such a committee would be incompetent to apply a remedy to those abuses. He therefore approved of the commission. Prior to this year, specific charges were brought against the administration of justice in the Court of Chancery. Certain abuses were pointed out, which it was said, rendered it difficult to obtain justice in that court. But now a different course was pursued, and the whole system of the court was arraigned. The authority of the commission extended over an immense range of inquiry: it was appointed to consider "whether any, and what alterations could safely be made in the practice established in the Court of Chancery, or in the offices connected with that Court; or in the practices established in those offices, whether in respect to law or equity." It also extended its inquiry into general matters of equity—into bankrupt cases—into the different stages of proceeding in all matters from the beginning to the end of a suit—into the mode of hearing and deciding causes, together with the expense attending the various proceedings, and the time which they occupied. Now, he was not aware of any set of words in the English language, that could give to a set of commissioners a better opportunity for taking a most extensive view of this subject, through all its ramifications (hear). But the commission did not stop here. It went on to meet a point, which had been suggested frequently in that house, relative to the variety of business transacted in the Court of Chancery; and the commissioners were called on to inquire "whether any and what part of the business can be usefully withdrawn from the Court of Chancery, and transferred to some other court." Words more comprehensive than those could not, he thought, have been selected. Whether the bankruptcy cases could with propriety be withdrawn—a point long contended for—was thus made a part of the subject to be investigated by the committee. There was no part of this inquiry, extensive as it might be, that would not be fully, fairly, and substantially met. If the present commission were not entitled to the confidence of the house and country, to whom

would his learned friend commit this inquiry? When he called for the evidence, were he and his friends ready to examine into minute technical points, and to decide whether certain rules of the court should be altered? The learned gentleman then quoted two extracts from Mr. Miller's work, in favour of the constitution of the Court of Chancery, in which that gentleman stated that the forms of the Court being of comparatively modern date, were originally more intelligible than those of the courts of common law; that they at length became vitiated by the course of practice, but that the general principles on which that court was conducted, were still entitled to commendation (hear). He next read an extract from the work of a lawyer of New York, Mr. Rumbold, in which that gentleman greatly praised the constitution of the Court of Chancery. The Code Napoleon had been pointed out to them as a standard which all nations ought to follow; but Mr. Rumbold, in his work on "the office and duties of a Master in Chancery," expressed it as his opinion, that the Americans, the rivals of this country in arms and commerce, could not do better in the formation of their system of jurisprudence, than to follow the system which had for so many ages prevailed in England.—He could not understand upon what ground objections had been taken to the Lord Chancellor being placed at the head of that commission, because he thought it must be obvious that the experience and knowledge which that illustrious person must possess on this subject would make his assistance worth more than any other which could be obtained. Personally he had no objection to the production of the evidence; but he thought, for the reasons he had stated, that it was not expedient now to publish it.

Dr. Lushington saw no reason to depart from the universal principle that publication was in all cases likely to elicit the truth (hear).—He wished that the evidence taken before this committee should be published, in order that it might undergo a full discussion in every possible shape, by pamphlets, reviews, and otherwise; because this discussion would, among its other good effects, afford assistance to the commissioners themselves, and the more the subject was examined, the more likely was it that the great object of the inquiry would be attained. He was anxious also, that it should be produced, that it might prove the commission had been mindful of their duty, and that they had discharged it with faithfulness and impartiality. A very short space of time would suffice for its production; and all that remained to be done would not be prejudiced by the production of that which had gone before, because he verily believed no further evidence remained to be taken, excepting for the purpose of elucidating such parts as exhibited a discrepancy of opinion among the persons examined. In order to the due administration of justice, three things were necessary—first, that the system should be a good one; secondly, that the practice should be judicious; and thirdly, that the judge should discharge his duty with ability, integrity, and dispatch. If any one of these items were wanting, it was impossible that justice could be duly administered. The first point was not within the province of the commission to inquire into. The second was conveyed in the instructions to

this commission in so comprehensive a manner that it was impossible to extend them. Whether the Chancellor had been a good judge or not, the commission was not directed in precise terms to inquire; but it was impossible for them to give their opinion whether any part of the jurisdiction of the Chancellor ought to be transferred, unless they first came to a conclusion as to the manner in which the Chancellor, the Master of the Rolls, and the Vice-Chancellor, had discharged their high duties; because, until it was ascertained by what means the arrears had been occasioned, the delay complained of could not be attributed to the proper quarter. He was not one of those who would object, if it became incidentally a part of his duty, to speak plainly his opinion as to where the blame ought to rest; and in justice to his brother commissioners, he must say that he had seen in none of them the slightest disposition to shrink from that duty (hear). He felt it also necessary to assure the house, that no opposition had been offered to impede the course of the inquiry in which they were engaged. The conduct of the Lord Chancellor in that inquiry had been perfectly consistent and honourable. He would not attend any of the examinations of witnesses, but when they should have been gone through, and the commissioners came to the discussion of that evidence, he offered any explanation which might be in his power. The illness of the Vice-Chancellor had occasioned some delay in the preparation of the report, and he thought the house would agree that the committee ought not to close their inquiry without the valuable assistance which his experience and knowledge would afford them.

Mr. Abercrombie thought he had a right to conclude, from what had been said by the hon. gent. on the other side of the house, and by the members of the commission, that there could be no objection to the production of the evidence. The advantage to the public in its immediate publication would be this—it would save a year, it would give more time for the consideration of the subject, and would enable persons in and out of the house to arrive the sooner at a conclusion. All that could be expected in this shape must be effected, as all had hitherto been effected, by the public (hear). The house had resisted as long as it could all attempts to obtain this inquiry, and at length it had been granted only in consequence of the unanimous and loud cry of the whole community (hear, hear). There was perhaps no question which so deeply interested the great body of the people of England as this. They ought to have an immediate opportunity of seeing what had been done,—what questions had been asked, and what answers had been given,—that the truth might be elicited, and that they might arrive at that conclusion which they ought to form. He was convinced that upon this subject no man could give a better or sounder opinion than Lord Eldon. As far as high attainments in his profession went, that judge was inferior to none. But here he must stop. The loudest complaint which had been made, others, if they would, might call it clamour, but he called it reasonable and well-founded complaint—was against Lord Eldon himself, and the manner in which he administered justice. The gravamen of the numerous petitions on this subject was the inconvenience which suitors experienced in consequence of the practice of putting causes

day after day in Lord Eldon's paper, purporting to contain the business of each day, and which causes did not come on (hear, hear).—They were postponed over and over again, each postponement was attended with a very considerable expense; and even when causes had been decided, the judgment was delayed some times for weeks, sometimes for months, sometimes for years (hear, hear). These were among the heaviest complaints made against Lord Eldon, and he asked whether the commissioners had examined into them? Whether any thing had been done to ascertain their truth, whether the cause papers had been produced, which would at once decide the point (loud cries of hear). Any person who knew any thing of the practice of the Court of Chancery would agree with him that this was the greatest inconvenience the public had to complain of, and that this brought upon the whole system a greater degree of discredit than fairly fell to its share. He thought that system, if properly administered, was admirably contrived for the public advantage; for the sake of the system then (in favour of which he might perhaps be prejudiced) he wished the subject to be fully examined. With respect to the manner in which the commission was composed; it was the first time in an inquiry into the proceedings of a particular court that the person selected to be at the head of the commission, was the person who presided over the court.

Sir M. W. Ridley, in reply to an assertion which had been made by the hon. member for Nottingham (Mr. Denman) respecting the combination laws, said, there had been a greater number of men than of masters examined. He recommended that the attention of the house should be directed, not only to the court of Chancery, but to the other courts of equity, and particularly to the court of Exchequer, which required at least as much reform. He had had a case twelve years in that court, and had gained 40l. a-year by a decree in his favour at an expense of between 7 and 8,000l. He objected, however, to the mode in which an eminent individual had been attacked. Such attacks did no good, for Lord Eldon stood very high in the estimation of the people of England. The hon. member proceeded to read a passage in the Edinburgh Review in proof of this.

Mr. Brougham rose amidst loud cries of question.—With respect to the Lord Chancellor, he would say, that in the amiability of his habits, and in his courteous manner in all public business, he far surpassed every other judge, from the highest to the lowest, that he had ever seen. This made him feel considerable reluctance at being obliged to use harsh expressions against Lord Eldon. He had heard the late Sir Samuel Romilly express the same reluctance, and for the same reason. He had often heard him deplore the necessity of saying harsh things concerning a judge, who in his judicial capacity had never displayed any thing but courtesy. As a politician, Lord Eldon acted very differently; for in the House of Lords there was no man who said more harsh things, or who spoke with less respect of his enemies, and of those who were opposed to him in political opinions. The hon. member for Newcastle (Sir M. Ridley) had quoted a passage from what he was pleased to call a great authority, in favour of the Lord Chancellor; and

in the way in which he had done it, he had exhibited a degree of subtlety which would have done credit even to the great lawyer to whom it referred. The hon. member had stated only a tenth part of what was to be found in the work to which he had alluded—he had given only a tithe of the lamb's wool, and had omitted all the other nine parts, which—if his recollection served him rightly, composed a very severe and unsparing, but by no means exaggerated or unjust picture of the judicial merits of the noble and learned lord (hear, hear). Certainly, as he had before observed, he had never seen the noble and learned lord do any thing more clever than to quote the tithe of what a writer had said respecting an individual, and to suppress the other nine parts, which qualified the opinion, *valde quantum*, which was contained in the tenth. He remembered that Mr. Butler—for whom he entertained the very highest respect, but who certainly was overflowing with the milk of human kindness towards friends and foes—had done something of a similar nature on one occasion. Mr. Butler stated that he had heard Sir Samuel Romilly say, that he had never known a judge more able than the Lord Chancellor, or one more remarkable for his courtesy towards practitioners. That was very true. He (Mr. B.) had heard Sir Samuel Romilly make the observation over and over again; but Mr. Butler omitted to state what Sir Samuel Romilly never failed to add—namely, that he considered his lordship, from the peculiar constitution of his mind, one of the very worst judges that ever sat in the Court of Equity (a laugh). This opinion of Sir Samuel Romilly was entitled to some weight, on account of his connexion with the court over which the learned lord presided; indeed, he might be said to have been “brought up at the feet of Gamaliel.” If ever a motion stood on irrefragable grounds it was that which had been submitted by his hon. friend the member for Westminster. It had been said, “Put off the motion till the next session.” But what was this more than saying, “Wait for six or seven, or eight months—wait until after Easter: the calamities of Ireland, the renewals of the Insurrection Act, all the wrongs of that country shall be discussed and left undressed in the early part of the session; foreign affairs shall also be disposed of; the boisterous torrent of the early part of the session shall have passed away, and then this measure may sail in on the quiet back-waters;” but then the house would be told, as now, “It is too late” (hear, hear). “What, will you suspend a threat over the head of the learned judge, and send him to try causes in the long vacation?” The house knew very well how successful those appeals were in producing fresh delays. The question, therefore, was not whether the house should receive the evidence now, but whether the abuses of Chancery should be inquired into in the next session, or in the session after; unless the evidence was received now, he despaired of seeing any thing done within that period (hear). His learned friend (Dr. Lushington) had told the house that the commission, as far as he was concerned, was impartially constituted. That he most readily admitted; but when he looked at the other component parts of the commission—when he recollected the infirmities of human nature—when he considered how himself should feel if he were to be

placed in a commission of which he would be the only opposition member—he could not help imagining that his learned friend might be influenced in his opinions by something like a feeling of generosity towards an adversary (hear). When he recollected, too, that the commission was bereaved of the assistance of his learned friend the member for Lincoln (Mr. J. Williams), who was carefully excluded only because he had brought the subject under the notice of parliament—when he recollected that the commission was likewise bereaved of the assistance of his hon. friend the member for Durham (Mr. M. A. Taylor), who first (some laughing)—he would say that there was not a man in that house who deserved better of his country than that hon. member, and he should like to see the man who would take upon him to sneer when he uttered his conscientious opinion in favour of that hon. and learned individual. He saw members whose learning amounted to no more than the capacity of counting ten upon their fingers, who presumed to sneer at what he said—members who never opened their mouths in that house but to cover themselves with ridicule, and whose silence was the most prudent part of their conduct—he saw these men presume to sneer at a panegyric which was echoed by every person who had the honour of knowing the individual to whom it referred. Sir S. Romilly—who, to be sure, was no great lawyer, who was a person of contracted faculties compared with the gent. opposite, thought that he could not better employ his valuable time than in consulting the hon. member for Durham in private, and supporting him in public, on the subject of the Court of Chancery (hear). Sir Samuel Romilly did not think it beneath him to back the hon. member in the committee which was appointed with reference to the Court of Chancery; and then began that chapter of frustration of hope to the house and the country which was not yet brought to a conclusion. In that committee no obstruction was offered to inquiry on points of practice; but no sooner did Sir Samuel Romilly and the hon. member for Durham proceed to the too delicate part of the question—no sooner did they direct their inquiries to the time which had elapsed from the final hearing of a cause to the giving of judgment, than an adjournment was moved, and members who had never heard of what had been stated on the subject crowded in to befriend the Lord Chancellor by their votes. There was no more honesty, or, to use a gentler phrase, no more delicacy or adherence even to the ordinary forms of justice in that committee, than if it had been a committee on private business up stairs (cheers and laughter). The present commission, immaculate as it was, would go on like that. There were one or two points in the speech of his learned friend to which he felt it necessary to advert. His learned friend stated that the Lord Chancellor, out of delicacy to the members of the commission, and in order that it should not be supposed that he overawed them by his presence, had resolved never to attend the commission during the examination of witnesses, or except when a charge was brought against him; in short, that he was boldly resolved to meet any charge which might be brought against him. At the courage which the Lord Chancellor displayed he did not feel much surprised, for

nothing certainly could be a better foundation for boldness than a consciousness of absolute security; but he thought that his learned friend was mistaken with respect to the fact, that the Lord Chancellor had never attended the examination of witnesses. He was given to understand that the examination of the first witness, who was an eminent practitioner of the court, who had just then published a letter on the subject, occupied four days. The Lord Chancellor, according to his own rule, should not have attended at all: he attended two days. The Lord Chancellor had not, therefore, exhibited that strict conformity to the rule which he had laid down, which would have been requisite to give satisfaction, supposing the rule in itself to have been of any value. If the Lord Chancellor could not trust men whom he had himself sent to inquire into his conduct, his absence from the committee might have been of some importance; but as it happened, looking at the constitution of the commission, it did not matter two straws whether he was absent or not (hear). How was that commission composed? At the head of it was the noble and learned Lord himself. He might very well declare that he would not attend the examination of witnesses, because he at the same time said, "but you must take care what you are about, for I can come down upon you at any time like a thief in the night" (a laugh). Next on the list of commissioners came the noble lord's intimate and tried friend, Lord Redesdale, who had mounted the ladder of political preferment with his lordship, always a step behind (a laugh)—who got into the office of Irish Chancellor when his noble friend got into that of English Chancellor (hear, hear). The next commissioner was the Vice-Chancellor, an officer of the noble lord's own court. Next came a noble lord, just raised to the dignity of the peerage, who owed his advancement in every respect to the favour of the Lord Chancellor. He had never seen any man raised to eminence in so extraordinary a manner as the noble lord to whom he alluded. He was seen practising at the Exchequer sessions, and three weeks after he was made Solicitor-general (a laugh). The man who had been raised in this extraordinary and unprecedented manner certainly owed a great deal to the architect of his fortunes, being in no respect the architect of them himself (laughter). He was bound to declare that the noble lord had been raised to his present eminence upon the credit of possessing abilities which he had never exhibited—he had got every thing upon tick (much laughter). All that he said of the noble lord he said at his own risk of loss and disadvantage, for he was a judge before whom he was called upon sometimes to practice; but he could, in truth, declare, that he had never spoken to any individual in his profession who did not consider the noble lord's rise the most extraordinary flight upwards, of any thing, except a balloon, which had ever been witnessed (laughter). After the noble lord had been raised to the highest point, not of royal, but of Chancellarian favour (a laugh)—after having sat for a short time in the Common Pleas (and, he believed, he was the youngest judge who had ever sat on the bench), he was, by a sort of legerdemain known only to the Lord Chancellor, advanced to the office of Master of the Rolls, the easiest of all the judicial offices. Then, as

if to make assurance doubly sure, and that no latent seed of partiality should lurk in the noble lord's mind which might bias his judgment in favour of his patron, he was made a sort of Deputy Chancellor to the House of Lords, to do the Lord Chancellor's journey-work (great laughter). In order, if possible, to make this person the victim of what Horace Walpole called political gratitude, he was pointed out as the individual to whom the Lord Chancellor meant to leave his office by way of legacy. It was understood that the noble and learned lord meant to make him his legatee, by devising to him the great seal for the term of his natural life—that being the term for which it appeared that office was in future to be held (hear). The other members of the commission were the Solicitor-General, Master Cox, and several other persons who expected to be Masters (a laugh). They would be in attendance: for commissioners did not go out of the way of preferment; and though they might linger a little in the valley of the shadow, not of death, but of inquiry, they would inevitably enjoy the delights of a happy resurrection, and the learned lord, the great dispenser of official bounties, would be their staff and comforter, to bear them up against whatever public obloquy they might have to encounter. It was proposed to enquire into the conduct of the Lord Chancellor, and the noble and learned lord said, "Let me name my judge." That was granted, and the first judge he named was himself. His lordship's conduct reminded him of a ludicrous circumstance which occurred at an assizes in Westmorland. In a case of *Thompson v. Jenkins*, a man of the plaintiff's name got into the jury-box, but his name attracting attention, he was asked, very naturally, whether he was any relation of the plaintiff; to which he replied, "I *is* the plaintiff" (a laugh). Was not this just like the conduct of the Lord Chancellor? A commission was appointed to try the Lord Chancellor; Lord Eldon presented himself as first commissioner; he was asked whether he was any relation to the Lord Chancellor, and he answered at once, "I *is* Chancellor" (continued laughter). The judge who presided in the trial in Westmorland, requested Mr. Thompson to step out of the jury-box, and yet Mr. Thompson was as conscientious a man as the Lord Chancellor (a laugh). He had taken an oath, too, that he would well and truly try the issue joined between the parties, and a true verdict give, so help him God. The judge, however, was not willing to let Mr. Thompson do that under the sanction of an oath which the Lord Chancellor had undertaken to do without. Let no more be heard about the challenging of juries. The Chancellor's golden rule was best, for it would render the decision as speedy and satisfactory to one party, as his practice in his own court was unspeedy and unsatisfactory to all parties. He had been informed that the commission were very careful of touching upon the tender point—namely, the time which the Lord Chancellor suffered to elapse between the final hearing of a cause and the delivery of judgment upon it. For instance, where a question had been proposed to a witness on this point, the witness was desired to withdraw, the room was cleared, and the question was not repeated (hear, hear). This was the account given by the witness himself. The tone which hon. members on the opposite side of the house now adopted, was quite different from that

which they had formerly held. He remembered the time when, if the system of the Court of Chancery were attacked, the Tories would have said, "For God's sake don't attack systems; they are the corner-stones of our national prosperity, the sheet-anchor of our hopes, the ground-work, the pillar, the bulwark of our laws, religion, and constitution. Defend all our systems—by all means defend them; whether it be our parliamentary system, with our rotten boroughs (cheers), our ecclesiastical system with exorbitant tithes, or our judicial system with special juries and translations of judges. Be it the profligacy of the one, the hypocrisy of the other, and the subserviency of the third, still defend them; for, depend upon it, they are right" (great applause). But now the whole of the blame was laid upon the Court of Chancery, and not any upon the Chancellor. Really the Court of Chancery had not fair play when its system was blackened, night after night, in order to screen the Lord Chancellor. Had the question ever been put to any of the witnesses, "Do you think that such or such a person could, with the assistance of a journeyman Chancellor and a Deputy Speaker of the House of Lords, do what Lord Hardwicke, Lord Thurlow, or Lord Rosslyn did without such aid?" He had seen some of the questions which had been proposed to the witnesses before the commission; one of them was—"Can any man sit more than six hours in the Court of Chancery, having his mind during that time constantly on the stretch?" The inference which it was intended should be drawn from that question was evident; but the question should have been followed by another, "Does the Lord Chancellor sit for six hours in his court every day except Sunday, with his mind on the stretch during that time?" (hear.) He hoped the commissioners would take an early opportunity of putting that question, and also of supplying other deficiencies: for instance, it was absolutely necessary that they should have the cause papers before them, which would shew at once what delay took place between the final hearing of, and the giving judgment on, causes in the Court of Chancery. Unless the commission took measures for probing the evil to the bottom, they might sit for seven times seventy days, but their labours would only be a mockery, to be equalled by nothing but the manner of their constitution. In conclusion, he must state, that he had heard no substantial objection offered to the motion, which, if agreed to, would go far to correct the evils which were complained of, but which, if frustrated by a ministerial majority, would nevertheless have the opinion of all the people of England in its favour (hear).

Dr. Lushington rose to state, that the commission had taken particular pains to ascertain the causes of the delay which intervened between the final hearing of causes and the delivery of judgment.

Mr. Tindal believed the report of the commission would be presented previously to the commencement of the next session of parliament (hear, hear). He could see no good purpose that would be answered by agreeing to the present motion. The measure now proposed, would place the commission in a dilemma: as soon as the evidence was produced, they would be overwhelmed with communications from all quarters, some to contradict, and others to affirm, the statements which it contained. They

would thus be left in the inconvenient situation of being compelled to reject what would be called important additional facts; or else they must go on receiving fresh evidence, without knowing when they might come to a termination. And for these reasons he should give his decided opposition to the motion before the house.

Mr. *Canning* was desirous to state the grounds upon which his vote would be given. Throughout the whole speech of the learned member for *Winchelsea*, able and entertaining as it had been, there ran one grand misapprehension, which practically destroyed its value. The learned gent. seemed to imagine that the commission had been instituted as a criminal inquiry into the conduct of the Chancellor; whereas no one in the house had ever voted for it with any such view, nor was it to any such purpose that the commissioners had acted. In former times the learned gent. said, the custom had been, to attack not systems but men; but now, as he took it, that practice was reversed, for the house screened the individual, and gave up the system; but, without desiring to screen any individual, he (Mr. C.) had understood that the peculiar object of the commission which was sitting, was to inform the house whether it was the man or the system that deserved to be reprobated. The learned member set out by assuming that the fault was in the individual, and actually complained of the commissioners because they had not proceeded directly in furtherance of his theory. Now, from all that had been stated by the members of the commission themselves, it was clear that they shrunk from the investigation. The course of their inquiry had been described by the learned member for *Ilchester*; nor could it be doubted that in their hands the error of the Court of Chancery, whatever it was, would be brought before the house. And then it was that the speech of the learned member for *Winchelsea* would be in its proper place—if the house, upon the report of the commission as to the existence of the evil, refused to adopt the necessary measures to remove it. In the same way the learned member's dissection of the commission was spirited and powerful—taking it to be a commission set up expressly to criminate Lord *Eldon*; but if it had been instituted in order to inquire impartially whether the system was right or wrong, it ceased to be open to those objections which the hon. and learned member took to it. For whatever purpose, however, the commission had been intended, it was clear that to agree to the vote proposed was to destroy its efficacy. After the 70 days which the commissioners had sat, if this vote were carried, it could not sit even a 71st day with any prospect of advantage to the country. To what purpose then could it tend to put an end to an enquiry already so far advanced; and, in doing so, to throw imputation upon the characters of men who, in their individual stations, were known to be of the highest credit, and who certainly, in their collective capacity, lost none of their personal respectability? Was it to avoid delay that the house was asked to take this course—to put an end to all that the commission had already effected—and to start afresh at the conclusion of a session, when to find time even for printing the evidence, and putting it into the hands of members, was impossible? In answer to the call for any such proceeding, the house had a pledge from the members of the commission itself.

Certainly, if that pledge was not redeemed—if the report was not forthcoming at the time when it was promised—he did not know that, as an honest man, he could then resist the adoption of some other measures. At present, however, it was impossible for him to doubt the assurance which the house had received—that the report of the commission would be upon the table, in due course, as early as, even supposing the evidence to be produced now, any proceeding could be taken upon it. As to the progress which the commission had made, or the effect of the inquiries into which it had entered, he should at present rest silent, because the subject was one upon which he was not informed. It was with a view of being informed that he desired to see the evidence which had been taken before the commission, together with the inferences which in the report would be drawn from that evidence, and the recommendations with which it would be accompanied. How far he might agree in those inferences or be inclined to adopt those recommendations, it was impossible for him to say; but being ignorant, as he was, of the practice of the Court of Chancery, an ignorance which he shared, he believed, with the great majority of those persons whom the learned member opposite wished to take the arrangement of it into their own hands, he looked to be enlightened by the report of men whom he believed capable of instructing him. The advanced and valuable labours, therefore, of such men, he was not disposed very lightly to throw away; nor, placing, as he did, the highest confidence in their integrity and zeal, would he be party to a vote which went to consign their characters to infamy.

The house then divided, when the numbers were—For the motion, 73—Against it, 154—Majority, 81.

**LORDS, MONDAY, JUNE 20.**—Earl *Grosvenor* presented a petition complaining that the petitioner had been kept out of an annuity bequeathed to him by the Duke of *Queensberry*, and had received no interest upon it.

The Lord Chancellor had no objection to receiving the petition. He conceived it entitled to their lordships' consideration, and he was glad that it was brought before them, as it gave him an opportunity of shewing their lordships how little reason there was for many of the complaints which were made against the delays of the Court of Chancery. The late Duke of *Queensberry* left immense property, but had left it more involved than any he ever recollected. There were estates let out to lease, on which large premiums had been taken, and the question as to the legality of these leases had first to be decided. There was a great number of similar questions, which were all to be tried before the Court of Sessions in Scotland; and before the Court of Chancery could move one step, it was obliged to keep in its hands assets to meet the various demands which might arise on the property from these litigated claims. It was not possible to know the amount of these claims, and till they were all settled in the other Courts, it was impossible for the Court of Chancery to proceed. In this case, the Court had done whatever was in its power; he would even say, that it had done more than ever had been done in any similar case. It had called on the tenants to whom the farms had been let, to state the amount of their claim, whichever way the question concerning their leases might



be decided. All that could be safely paid out, was paid by order of the Court from time to time. In fact, the payments had been accelerated more than in any other case. He would stake his credit and character, that not a single respectable Counsel could be found who would not say more had been done in this case than any Judge ever before was known to do. As to the rule of Court complained of, that was a rule over which the Judge had no power. It was part of the law, and he could not alter it. If it were to be brought under discussion, he must say that more argument must be addressed to his mind than his noble friend had yet brought forward to justify an alteration. He could only for the present say, that the rule complained of had been established by some of the ablest men who ever sat in the Court, and none of their successors had yet thought it possible to go on without adhering to it. Whatever delays might be imputed to the Court of Chancery in other cases, in the case brought before their Lordships by this petition, the conduct of that Court had been praiseworthy.

Earl Grosvenor thought it remarkable that this case, which the learned lord regarded as the most favourable for the Court of Chancery, had been standing for ten years without a decision.

The Lord Chancellor declared that there had been much clamour and calumny on the subject of proceedings in Chancery—not by persons who meant ill, but by persons who did not well consider the consequences of what they talked about. If any of their lordships thought the rule of law with respect to the non-payment of interest wrong, they might propose to alter it; but his answer to any proposition of that kind would be, that he thought the rule right. It was impossible to know whether a person was entitled to interest or not when it was not ascertained whether he could be paid the principal. Much had been said about common law and common law lawyers, but if there was any lawyer who would say that this country could go on without a Court of the nature of the Court of Chancery, he would say that their lordships might send him to the Old Bailey, and put him to death.

The petition was laid on the table.

COMMONS, MONDAY, JUNE 27.—Mr. Berrill presented a petition from Frances Helligar, complaining of the grievous and intolerable oppression and delay of Chancery proceedings. The petitioner was a widow, reduced to pauperism, in the Greenwich workhouse, although her husband left £400l. and more, to her, in 1809, of which 300l. had been claimed by his creditors, and 1,100l. wasted by a common proceeding in Chancery for the distribution of the effects; while she, at the age of seventy-eight, was now in prison because she could not pay 35l. the expense of an attachment under which she had been taken for not delivering up deeds which were not in her possession. He had hitherto abstained from taking part in the discussion upon Chancery abuses, but it was not because he was ignorant of them; on the contrary, he could speak with certainty of the abuses of the practice in the master's office, which were too expensive and dilatory to be countenanced by any persons, the masters themselves not excepted.

Mr. Peel said that he would take care that

the substance of the petition should be referred to the commissioners of inquiry. He admitted that the evils complained of were considerable.

### *Writs of Error.*

TUESDAY, JUNE 7.—Mr. Peel said, that the bill which he was going to ask leave to introduce into the house was the first fruits of that liberal provision which it had recently made on behalf of the judges of the land. The object of his present bill was to throw an impediment in the way of writs of error, sued out only for the purpose of delay. A writ of error was an appeal from the judgment of the court, and superseded it for a considerable time. In the Court of King's Bench, as well as in the Court of Common Pleas, any individual had the power of suspending a judgment by suing out one of those writs, which was granted as a matter of course. It was found in consequence of the inquiries instituted by the commission to inquire into the abuses of Courts of Justice, that the number of writs of error, in the years 1817, 1818, and 1819, received in the Exchequer Chamber from the Court of King's Bench, was 1,197. Out of these 1,197 writs of error, 158 were never prosecuted at all; in 336 the proceedings were abandoned; in 702 of them the judgment of the Court of King's Bench was affirmed, and only in one of them was it reversed. Out of the whole number there were only nine cases in which the parties thought proper to argue the grounds on which they had appealed, and in eight of them the argument was clearly against them. The delay which these proceedings had created to the suitor in obtaining his judgment was about a year in each case, and was an evil of such a magnitude as called loudly upon the house for redress. On each of these writs the chief officer of the Court was entitled to certain fees; but in consequence of the arrangement which had recently been made, these fees would cease to be paid to that officer and would be carried over to the consolidated fund for the benefit of the public. By an act passed in the reign of James I., a check had been put upon frivolous appeals to the House of Lords; and he now intended, by a similar provision, to put an end to frivolous appeals to the other Courts of Justice. His bill would provide, that every party suing out a writ of error, should enter into recognizances for the payment of twice the amount of debt, or damages, already found against him: so that hereafter any person suing out such a writ, would do it at his own peril, and would therefore take care that he had a valid point on which to object to the existing judgment. He concluded by asking leave to bring in a bill to prevent the practice of suing out frivolous writs of error.—Leave granted; after which,

The bill was read a first time.

FRIDAY, JUNE 17.—Mr. Peel moved that a clause be added to the Writs of Error bill, authorising the crown to appoint commissioners to report on the amount of fees received, and to award to the present holders a just compensation for them during the term of their natural lives.

Lord Clive did not rise to object to the clause, but to mention the case of an hon. friend of his (Mr. Kenyon), the second son of the late Lord

Kenyon, who would be utterly deprived of the fees from which he derived his income by the operation of the present measure.

Mr. Peel said that public reforms ought not to interfere with the rights of individuals, but compensation must be given with a due regard to the interests of the public. If the fees to be lost were legal fees, he was perfectly ready to allow such compensation as the commissioner under the circumstances should think fairly due.—The house went into the committee, when, on the motion of Mr. Peel, a resolution was agreed to, for the compensation of certain officers whose incomes were affected by the operation of the bill.

MONDAY, JUNE 20.—Mr. Peel moved the order of the day for going into a Committee upon the Writs of Error bill.

On the question that the Speaker should leave the chair,

Mr. J. Williams said, that he approved of the principles of the bill, but he thought it might be carried much further. In cases where persons sued out Writs of Error needlessly, and put the other party to expence, the Court should be allowed to award something more than taxed costs, and to double and treble them! He wished also to have a remedy provided against the putting in of sham pleas. He knew not whether the right hon. gent. clearly understood this part of the subject, and he felt that he was treading on the most ticklish and delicate part of his (Mr. W.'s) trade or profession, call it which they would, in maintaining it. What he meant by a sham plea, was a plea put in only to gain time; such for instance, as that the plaintiff had accepted a horse in satisfaction of the debt, or that judgment had been entered up in the action, when, in point of fact, the horse and the judgment were mere fictions of the imagination. In all such cases he would give to the Court the power of apportioning costs to the circumstances of the case.

Mr. Secretary Peel thanked the learned member for his suggestion; but he feared that in the first instance it would throw an obstruction in the way of appeals. With respect to the case of sham pleas, he wished for further information on the subject, and then, perhaps, it would be best to provide against them, by a separate enactment.

LORDS, TUESDAY, JUNE 28.—The Earl of Liverpool moved the order of the day for the second reading of the Writs of Error bill. He thought it a disgrace to the law of England, that people could allow judgment to go by default, and then take out a writ of error to delay execution. A different course had already been followed in the county Palatine of Lancaster with the greatest benefit.

The Lord Chancellor did not deny that these writs were a great evil; but he was afraid the abolition of them would produce a greater evil than they caused. If persons could now allow judgment to go by default, and afterwards stay execution by writs of error, those persons who had heretofore adopted this mode of gaining time would now plead the general issue. This would cause more delay and expence to the plaintiffs than the other mode of proceeding, and this bill would probably saddle the plaintiffs with greater expence. He did not say, however, that some general measure should not

be passed to compel those who allowed judgment to go by default, and then sued out a writ of error, to follow up their writ. He thought before the present measure was adopted, some other step ought to be taken to forbid all sham pleas. He spoke, he believed, in this respect, the opinions of the greatest lawyers of the age.—The bill was then read a second time, and was, after certain amendments, ultimately passed.

COMMONS, FRIDAY, JULY 1.—On the motion of Mr. Peel, the Lords' amendments to the Writs of Error bill were taken into consideration.

In answer to a question from Mr. Hume,

Mr. Peel stated, that he had, in conformity with the address of that house, recommended to his Majesty the appointment of commissioners to revise the statute book. At the same time, he did not look upon that as the best mode of effecting so desirable an object. He himself meant to proceed as he had begun, in consolidating the law upon different subjects (hear). Next session he hoped to be able to introduce a measure for the consolidation of the statutes relating to larceny and several other offences.—The amendments were then agreed to.

### *Consolidation of Jury Laws.*

WEDNESDAY, MARCH 1.—Mr. Peel, in moving for leave to bring in his bill to consolidate the laws relative to juries, dwelt upon the advantage of uniting masses of statutes into one clear and intelligible law. There were at present no less than 85 statutes which, in one way or other, had reference to the subject of juries. Some of these acts bore titles under which no such matter ever would be looked for. One related to the recovery of small debts, and lands held in coparcenary; another to the building goals and preventing apothecaries from filling certain parish offices; another to prohibiting the exportation of leather; some were expired; some in force;

"Mortua quiescit jurebat corpora vivis;" in fact, they were so numerous and so various, that no one but a lawyer—and scarce he—could fail to be puzzled by them. In consolidating these laws, there were some which it would be found advisable to repeal, as, the laws relating to attain, which affixed penalties to juries giving an improper verdict. The denouncement against this offence was of such a character as hardly to be credited. The jurors were to lose their *liberam legem*, to forfeit their goods and chattels, and to be imprisoned; their wives and children were to be cast out of doors; their houses to be razed, their trees to be rooted up. It was true that this statute had not been put in force for 200 years; but an attempt had been made of late years to revive the wager of battle, when the legislature, seeing the absurdity of the law, had wisely abolished it; it was therefore advisable to get rid of the law of attain, because it was just possible that an attempt might be made to revive it in the same way. Alterations of terms in those laws which were to continue to exist would be made with great nicety and caution; the old phraseology would be every where preserved, unless where it was contradictory or absurd. The substantial changes proposed in the law relative to juries might be divided un-

der two heads—those peculiar to common, and those affecting special juries. With respect to common juries, the first change would be in the manner of making out the lists. At present, the lists in all the parishes were made out by the petty constable—an individual frequently incapable of reading or writing; and sometimes a little open to corruption: he was, in fact, the arbiter as to who should, or should not, serve upon juries within his domain. In this way it frequently happened—the fact was notorious—that the richest and best qualified man in a parish escaped; while those who were poorer, less competent, and less able to spare time to perform the duty, were unfairly added with it. His present intention was, that the churchwarden or overseer should make the list in all places where such an officer existed; where they could not be found, the constable must continue to reign; but a more distinct account of the names, qualifications, and residences of persons than had heretofore been given, would be demanded. A distinct petty session would also be assembled to discuss the appeals of persons who thought themselves unfairly called on, or omitted. With respect to the special juries, it was intended, first, to extend the list of persons qualified to serve in counties. Instead of taking, as at present, only esquires, all persons described as merchants or bankers—as in the city of London—would be eligible. The old system was full of inconvenience. It had happened but a few years since in a political trial (that of Major Cartwright), that while the special jury struck was necessarily to consist of 48 names, there were but 54, exclusive of those serving on the grand jury (and who found the bill), in all the county.—With regard to the manner of striking special juries—a plan was devised which he hoped would give universal satisfaction. His proposal was, that the name of every special juror, either in London, Westminster, or in the counties, should be entered in a book, with the place of his residence, and a description of his rank and quality. The list in this book should be alphabetical, and to each juror's name there should be a number, as 1, 2, 3, &c. Then the number of all these jurors should be written upon different cards; those cards should be put into a glass or box, and 48 of them should be drawn successively, from the whole number, by some person regularly appointed. The 48 gentlemen thus ballotted were to be the jury to try the cause, and they were to be reduced to 24 in the ordinary way (hear, hear). This was to be the general practice, and in all political cases, the invariable one. In civil and commercial cases, it was proposed to allow an occasional deviation. Parties agreeing to have their jury selected in the old way, might accomplish that object by sending their joint consent, in writing, to the proper officer. In civil cases also, a jury selected to try the cause of two parties, might be allowed, upon consent, to try the causes of others. If the course proposed were found beneficial as regarded the law of juries, he hoped that the principle of revision and consolidation would not stop at that point. It was impossible to look at the condition of our Statute Book, without feeling that a great diminution might be effected in the mass of matter which it contained. He was not disposed to be hasty; but would try the effect of alteration by degrees (hear, hear). The criminal code ought to be first looked at, for it was most im-

portant that the subject should know what was the law which he was called upon to obey. The laws with respect to forgery abounded with anomalies, and needed great consideration. In the statutes against larceny also, he thought a great reform might be effected. Formally, there would be no difficulty as to the going into an inquiry of this description. An address had some time since been presented to the Crown, praying the appointment of a commission for the purpose, and that address might be proceeded upon. The matter, as regarded the juries, he had looked into very narrowly, and had been assisted in so doing by persons of more competency than himself; but if the experiment were generally to be proceeded in, he thought the appointment of a commission would be the better way. The inquiry wanted would necessarily be of a very minute and laborious description; such as it was scarcely possible, in these times, that the Lord Chancellor or the Attorney-General could find time for. At present, however, his object was confined to the law of juries, in which he was quite sure a great deal of alteration was desirable. The *rt. hon. gent.* concluded by moving for leave to bring in “a bill to regulate and consolidate the laws relative to juries.”

Dr. Lushington highly approved of the principles of the *rt. hon. Sec.*'s proposed measure. The alteration intended in the law of juries would be most beneficial; and the commission suggested generally should have his cordial support. The first point, however, was to consolidate: alterations must be made with great caution, and only step by step. It would be very material, also, that the existing forms of the statutes should be preserved as far as possible, in order that decided cases might not be unnecessarily interfered with.

Mr. Hume felt that the country was indebted to the *rt. hon. Sec.*; but he wished that in the course of the intended alteration the common law could be placed upon some fixed system; for at present he considered it as tantamount to no law at all.

Mr. Peel suggested, that it would be almost impertinent to enact the common law by statute at this time of day. Who would think of passing a law now, to say that juries must be unanimous in their decision, or that they must be formed of twelve persons each?

Mr. Bright wished to introduce a clause to prevent the separation of juries until they came to a decision. Great inconvenience had already arisen from a contrary practice. He would not allow a jury to be discharged, even with the consent of the parties.

Leave was given to bring in the bill.

FRIDAY, MAY 30.—Mr. Peel rose to move the order of the day for the re-commitment of this bill. He briefly stated its objects, as upon the motion for leave to bring it in, adding, that it was proposed to extend considerably the qualifications of those who might be called upon to administer the law as jurors. A vast number who were not qualified as the law now stood, would be rendered liable to serve. Thus all leaseholders to the amount of 50*l.* per ann. for 21 years, would be now qualified, instead of the qualification being confined, as at present, to those who had a freehold of 5*l.* a year. Another object was, to remedy the inconvenience occasioned by a challenge to the array, because there was not a knight among the number. This

was a very inconvenient enactment; and he proposed to repeal it. It was also intended to repeal that part of the present law which required, in many cases, that so many jurors should be returned from the same hundred. Justice was more likely to be administered with strict impartiality where men were chosen from different parts.

Mr. Scariatt offered his sincere applause to the *rt. hon. gent.* for the introduction of this most useful measure. It was of the utmost importance that the trial by jury should be made as perfect as possible. One of the greatest blessings resulting from the free constitution of this country was, that the people had, as jurors, the administration of the laws in their own hands, and were thus in a great degree the distributors of the punishment with which the infraction of those laws were visited.

Mr. Brougham observed, that that part of the bill which went to alter the present mode of selecting special juries, more particularly in crown cases, would produce the best results; for a selection, though made with the most scrupulous impartiality, would still leave a suspicion not favourable to the due administration of justice. Indeed, when this subject was first mooted, about three years ago, the Master of the Crown-office had declared, that there was no person to whom the proposed alteration would afford more satisfaction than to himself. He (Mr. B.) hoped that the passing of this bill would be a useful lesson to those who were so wedded to the system of things as they are, as to be seriously alarmed at even the mention of any change. He remembered the well-known case a few years ago, in which the present mode of selecting special juries was objected to, and in which it was urged that the power of the returning officer to run over the list, and mark off a name here and a name there, skipping over several names in each interval, was, to say the least of it, a power liable to abuse—in that case it was gravely held, by those to whom he alluded, that such a mode was the best of all possible modes of returning special juries. Now, however, he hoped their eyes would be opened by this act of the legislature, and that they would at length admit, that things as they are might possibly be improved.

The question was then put, and the bill went through a committee.

Mr. Peel, on moving the third reading of the bill, wished to add one clause—that nothing in it should affect any privileges of parliament. The reason of this addition was, that as the law now stood, no member of Parliament could be called upon to serve on a jury during the continuance of the session; and he thought that it would be wise to leave that part of the law just as it was.

The clause in question was then added; after which the bill was read a third time and passed.

### *Consolidation of Acts relating to the Customs:—Prevention of Smuggling.*

FRIDAY, JUNE 10.—The house having resolved itself into a committee,

Mr. Harries stated, that this was one of the bills which his Majesty's government had felt it necessary to bring forward, for the purpose of condensing, into a comparatively small compass, the laws relating to the customs. The whole of the

laws, which would be abrogated by this and several other bills, amounting altogether to twelve, amounted to not less than 500 (hear). There were some new points connected with this bill which he deemed it necessary to state to the committee. The first related to foreign smuggling. Formerly vessels belonging in the whole or in part to his Majesty's subjects, or whereof half the persons on board were subjects of this realm, were, if suspected of being employed on a smuggling expedition, liable to be seized if found within eight leagues of the coast between North Foreland, in Kent, and Beachy Head, in Sussex. It was now provided, that four leagues should be substituted for eight. As much observation had taken place with respect to the right of searching individuals on their arrival in this country from foreign parts, it was proposed to be enacted, that every person challenged with having contraband goods on his or her person, should have the right of requiring the revenue-officer to take him or her before a justice of peace, or before his superior officer, where he should make oath that he had a reasonable ground for his suspicion, before the liberty to search should be granted; and, in order still more effectually to guard the subject, it was provided, that if it appeared that the revenue officer had frivolously or unnecessarily detained the person so brought before the justice of peace, or superior officer, to be searched, he should be subject to a penalty. Under the act of the 9th of Geo. I. persons skulking, under suspicious circumstances, within five miles of the shore, were liable to be taken into custody. It was now provided, that if it appeared to the magistrate, that a person taken into custody on the alleged ground of skulking near the shore for the purpose of assisting in smuggling, had been arrested vexatiously and unnecessarily, that the officer so conducting himself should also be liable to a penalty.

On reading the clause relative to the capture of vessels within four leagues of the coast between the North Foreland and Beachy Head,

Dr. Lushington observed that if this country assumed such a right of search on her shores, other states would insist on a similar right with respect to theirs, and much trouble and inconvenience would probably arise. This had been the case very recently with Sweden. He knew not how Great Britain could refuse to other nations this right of search, while such a law remained on her statute-book.

The Attorney-General said, that the same principle was pursued by France, at this moment, both in Europe and the West Indies. If a vessel were seen lying off the shore, without any apparent pretext for remaining in that position, and were found to contain spirits or other contraband goods, slang in a particular way, would his learned friend say that circumstances of this kind would not justify a seizure?

Mr. Denman objected to the principle of the bill, because it went far beyond that which appeared to him to be just and fair. They were told that, to justify seizure, half the crew, in some instances, must be British subjects. Huddos and Lascars were British subjects. Did they come under the operation of this clause? They were told of a new clause, to prevent persons from being unnecessarily searched. The officer, if it appeared that he acted from improper motives, was to be subjected to a penalty; but it was clear that very few penalties would be recovered. The officer, in almost

every instance, would be more or less connected with the magistrate, and unless the case was of the most glaring description, would escape unpunished. Where an action was brought for improper seizure, if the judge certified that the seizure was made with reasonable and probable cause, the claim of the plaintiff was cut down, after all his trouble and vexation, to 2d. damages and 2d. costs.

The 35th clause, empowering Custom-house officers to search the persons of individuals on board ships coming from foreign parts, was opposed.

Mr. B. Gordon objected to this clause. The loss which the revenue would sustain by giving up this personal search would be very trifling, and it was an interference with the liberty of the subject, and a violation of female delicacy peculiarly offensive.

Mr. Herries said that the loss to the revenue, if their right were given up, would be enormous. It would then be understood that every body, upon his own person, was to have the liberty of smuggling to any extent he thought proper. It was peculiarly desirable that the law should be clearly defined.

Mr. Huskisson said that there were persons, well known upon the coast, who made a regular livelihood by smuggling goods concealed about their persons.

Mr. Hume thought the practice of search, especially as it applied to females, disgraceful.

Mr. G. Lamb said, ladies might obviate the inconveniences by staying at home.

The clause was postponed, and the chairman then reported progress.

### *Apothecaries' Act.*

WEDNESDAY, FEB. 23.—Mr. Brougham moved for leave to bring in a bill to amend an act of the 55th year of the late King, for regulating the practice of the apothecaries in England and Wales. A great inconvenience had been found to arise from the manner in which the bill had been framed, although in its principle it was highly beneficial. Under the present act, an apothecary could neither recover payment of his bill, nor defend a *qui tam* action, which might be brought against him for penalties, without bringing into court some person to prove the handwriting of the Warden and Examiner of the Apothecaries' Company on the certificate, which was his licence for practising. The learned gent. proposed to make the seal of the Company evidence in all cases, guarding against the possibility of that seal being forged, by providing for the punishment of persons committing such a fraud. It happened that men frequently came from Scotland and Ireland, to settle in London, who were as well qualified to practise as those who had been licensed by the Apothecaries' Company. He proposed therefore to extend to persons who had been properly examined by the universities of Dublin, Edinburgh, and Glasgow, the same privileges as were possessed by those who had received the certificate of the London Apothecaries. The other Scotch Universities, owing to the laxity of their practice with respect to examinations, could not at present be included in the bill consistently with a due regard for the public safety. If the sum of 15*l.* were transmitted to Aberdeen, or St. Andrew's College, the diploma of which it was the price was regularly transmitted by the post. This practice he regretted, because it added

little to the revenues of those colleges, while it dispirited them of that reputation which they derived from their predecessors, among whom had been some very eminent men.—Leave was given to bring in the bill.

### *Attornies' Clerks Bill.*

LORDS, TUESDAY, MARCH 22.—Lord Ellenborough presented a petition from certain attornies, and clerks, against the attornies' clerks bill. By the existing law, a duty of 12*l.* was paid on the articles when persons entered as attornies, and this duty was required to be paid within six months. A bill, however, had been brought in, by which persons who had not paid the duty, though articulated five years ago, might, if they paid the duty previously to the 1st of July next, obtain the same advantages as those who had regularly complied with the law. The petitioners opposed the bill, both on public and private grounds—on public, because the number of attornies was already sufficient—on private, because it was not just that persons who had failed to obey the law should be placed on an equal footing with those who had scrupulously observed it.

### *Naturalization Oaths.*

THURSDAY, MAY 26.—Lord Melville rose to move the second reading of a bill for amending the law relative to the oaths taken on naturalization and on reversal of attainder. According to the law as it now stood, foreigners naturalized, or subjects restored to honours, were obliged to appear at the bar of the house to be sworn, and to have taken the sacrament according to the forms of the church of England. It was understood at the Union that no test should be required of the natives of Scotland; but, notwithstanding the stipulation on that subject, the law had since been differently interpreted, so that the great age of the Earl of Mar could not excuse him from coming to that house, and he was obliged to comply with the usual practice of taking the test. It was very unreasonable that the sacramental test should be required of natives of Scotland, or of foreign Calvinists on being naturalized. He thought it would be sufficient if the law provided that the person naturalized was a Protestant, without inquiring whether he belonged to the church of England or any other sect. With regard to cases of restoration and reversal of attainder, it might often be a great hardship on persons to require their attendance at the bar of their lordships' house. A case of this kind had occurred, with respect to a young officer (Mr. Fitzgerald) who was obliged to appear and take the test, before he could enjoy the advantage of the restoration, though he was in the public service, and in a situation on account of which their lordships would have been disposed to extend indulgence to him. He therefore proposed that the necessity of appearing at the bar in cases of sickness, bodily infirmities, and under some other circumstance, should be done away with; the object of his bill was to provide, that in such cases it might be referred to a committee of their lordships to see whether the requisite oaths had been taken, and all that the law required complied with elsewhere.

The bill was read a second time.

*Attain in Blood.*

FRIDAY, APRIL 22.—Lord *Holland* rose to bring in a bill to prevent the consequences of attainder for high treason, and other crimes mentioned in it, from extending to the heirs of the offenders, or to their properties and titles, and to confine them to the persons of the offenders themselves. The object of the bill, was to confine the consequences of the attainder of persons for certain crimes to themselves, and not extend them, as they were now extended, to their families and descendants. In one sense, the bill would revive two acts of parliament, viz. 7th Ann. c. 2. and 17th Geo. II. c. 39. In another sense, however, the bill would repeal the 39th Geo. III. c. 93. He should therefore move that those acts be read, *pro forma*, and that the bill be printed. He should give timely notice when it was his intention to move the second reading.—The acts mentioned by the noble lord were accordingly read, *pro forma*.

THURSDAY, MAY 26.—Lord *Holland*, after the act of Queen Anne, and the subsequent statutes relative to attainder, had been read, proceeded to call the attention of their lordships to the bill he had introduced. In submitting the motion for the second reading of this bill, though convinced that it was founded on sound principles, and called for by a regard to good faith, he still thought some apology necessary for his undertaking to bring the measure forward. He was conscious that he was attempting to procure the alteration of a law of which some of the greatest and best men had in vain endeavoured to procure the repeal. The subject had occupied the attention of Lord Somers, Dr. Burnet, Blackstone, and Sir Samuel Romilly. If the interests of the people of Scotland, the influence of their peers in their lordships' house, and their representatives in the other, had as yet brought about no change of this law, it might be considered presumptuous in him, unaided by any authority, and standing there alone, to expect to accomplish so great an object. But he was induced to make the attempt by a train of circumstances and appearances in the times, which led him to conclude that the present was the most favourable moment which could be chosen for an experiment of a liberal kind. Several reasons concurred to support him in this opinion. Through two successive sessions their lordships had been most laudably occupied in amending the law of Scotland; they had also been employed in reversing attainders; and it was needless for him to remind their lordships, that there was no longer any competitor for the crown: the chief ground on which the apology for the law of attainder had been rested did not now exist. All these reasons induced him to think the present the fittest time, in which he could submit to their lordships such a proposition as that which was contained in the bill he had introduced. Still, however, he wished that one better qualified to do justice to the subject, and who would have had more weight with their lordships, had undertaken the task. The noble viscount opposite (Lord Melville) knew the sincerity with which he spoke, when he said that he would have wished that noble viscount to have taken this business upon himself. He had, indeed, that night brought for-

ward a measure which, though affording no direct argument in support of the bill now before their lordships, shewed some of the cruel consequences which had been occasioned by the laws it was now proposed to repeal. The object of the present bill was not to lessen the punishment of offenders, but to confine punishment to the guilty. It was brought forward to afford a shelter to the innocent. It was not founded on any morbid sensibility opposed to the punishment of crimes. Its effect, if it should be adopted, would merely be to restore to Scotland what once was the law of the country, and to which that nation had been strongly attached. It would bring the general principle of the law into effect; for the general principle was, that the consequences of attainder should not affect the descendants of any criminal except in cases of treason and murder: he wished only to abolish the exception to the general rule. He knew he should be opposed by that bugbear, the dread of innovation. He did not wish to condemn a proper repugnance to innovation; but whatever reason there might be for resisting measures on that ground, no such reason could apply to the present bill. In principle, the proposition had received the sanction of their lordships' predecessors. But it might be said that a measure which appeared reasonable in itself might be attended by great inconvenience, in consequence of the inconsistency to which it would give birth. But neither the objection of innovation nor inconsistency could be sustained. With regard to Scotland, the measure could not be innovation, for it was a restoration; it would remove an anomaly in the law of that country, which, if suffered to remain, might be attended with very serious consequences to the rights of succession. With regard to England, it was surely impossible to give the name of innovation to a measure which parliament had, during the last century, wished to adopt, and had only not carried into execution on account of the existence of a particular party. The principle, however, had been sanctioned, and that sanction was recorded on the statute book. The forfeiture of entailed estates, and corruption of blood, was done away in all cases except those of the attainder now under consideration. The adoption of the measure he proposed would, therefore, contribute to render the law consistent and uniform. The noble and learned lord on the woolsack could not, he thought, object to the measure either on the ground of innovation or consistency, for he had prevailed on their lordships to do away that most ancient practice according to which their jurisdiction used to be exercised—a practice more ancient than the woolsack on which the noble and learned lord was seated—and to delegate the hearing of appeals to a few of their lordships. He had also consented to the doing away the trial by battle in cases of murder. Why had the noble and learned lord done so? Because public convenience required the former alteration; and because in the latter case the law was not suitable to the times, because the people of England, for whose interest the practice must have been established, had now better means of obtaining justice. If the same principle were applied in the present case, his motion could not be rejected. The law of attainder and corruption of blood was felt to be as objectionable in Scotland, that the parliament of that country in the reign of James II., with

them James VII., enacted the law of entail as an indemnification against the law of attainder. He had the authority of one of the most eminent men in Scotland, and one of those best acquainted with the effect and operation of the laws in his time—he meant Lord Perceval—for saying, that in 1745, the great inducement of the people who adhered to the cause of the Pretender was to obtain some alleviation of the law by which entails were attained and destroyed. Bishop Burnet said, that at the Union it was intended to have introduced a provision respecting this law, but that the Scotch steadily refused to be deprived of the immunity which they had always before enjoyed from so cruel and unjust a regulation. In the year 1709, an act was passed for improving the act of Union with Scotland, and in this it was attempted to extend the law respecting corruption of blood to that country. But this attempt was opposed, as contrary to reason, and justice, and humanity. In the valuable memoirs which Bishop Burnet had left, this was distinctly stated; and even in the House of Lords the venerable Earl Cowper, and the upright Lord Somers, had not scrupled to recognize the principle, although they had supported the bill on the ground of existing danger—treason being then actually affiant. That act passed into a law, but there was a protest entered on the journals of the house, signed by twenty persons, of whom there were thirteen or fourteen out of the sixteen, representative peers of Scotland. It then went down to the House of Commons, where the Scotchmen and Englishmen who composed it, and who seldom agreed in any thing, united to oppose it, and added a clause providing an immunity in both countries from the operation of the law of attainder and corruption of blood. In those days the House of Lords did not think it wise or prudent to treat with contempt the voice and the wishes of the people of England, expressed through their representatives. They judiciously acquiesced in the clause, under certain modifications, and thus the law stood, making those crimes high treason in Scotland which were so in England, and that forfeiture and corruption of blood should continue until the death of the Pretender. The case with respect to Scotland stood thus:—Originally that country was exempted from the law of attainder and corruption of blood: after the Union this law was extended to it, and though subsequently suspended, was reproduced in 1715 and 1745, when the Pretender put forward his claims. This, however, was not done without considerable opposition; and Lord Hardwicke, who introduced the measure, admitted that it was only to be justified on the ground of then existing circumstances. Those circumstances existed no longer; all the objections which might have been urged to the measure he now proposed were at an end, and it came recommended to their lordships upon every principle of justice as well as of expediency. The opinion of Mr. Justice Blackstone was decidedly in favour of that which he had now ventured to express, although that learned judge quoted, in the course of his discussion, a passage from one of the epistles of Cicero\*, and the Treatise of Mr. Chas. Yorke

on the law of forfeiture, both of which were opposed to his own views. It was whimsical enough that neither of those quotations would now be received as authorities against the opinion of our great English jurist, because it was doubted whether the epistle which contained the quotation was really written by Cicero; and Mr. Yorke's treatise was denied to be law. He feared he had unnecessarily wearied their lordships by alluding to the authorities on the subject, for, even if they had all been against him, still, upon every principle of justice, of humanity, of sound policy, and of prudence, he hoped to induce their lordships to adopt the bill before them. He believed he could prove, and but that the house was already wearied he would attempt to do so, that the whole course of history showed that the effect of the cruel laws which he wished to see repealed was rather to create than to repress treasons. In a neighbouring country the effect of a confiscation, which had not, indeed, been adopted by any legislative authority, but by an universal revolution, was now felt and seen, and demonstrated upon a large scale what must necessarily be the result of such circumstances. The Bourbons, with all the advantages of their legitimacy and the other advantages, legitimate or not, which they possessed, found the kingdom over which they ruled in a state of such discord and disaffection, that their utmost efforts were necessary to prevent actual disturbance; and this was produced merely by the struggle and jarring between that part of the nation who had lost their property, and that part who had gained it. It was enough, however, for an English House of Lords to know, that the principle of the bill which he had brought in was one which was implanted more strongly in the heart of man than perhaps any other—that the innocent should not be punished for the crimes of the guilty (cheers.) He concluded by moving the second reading of the bill.

Lord Colchester said, that as the bill before the house went to repeal one which he had submitted to the other House of Parliament, and which had been passed twenty-six years ago, he would trouble their lordships with a few words upon it. With respect to the principle, that he understood to be one which had been recognized and adopted in almost every civilized nation and in almost every age. In times of political trouble men would always be found who would not scruple to risk their own lives upon any hazard which might hold out a sufficient temptation to their ambition, and it was only by involving in the consequences of their doing so interests which were dearer to them than their own, that such security as the general interests of society demanded could be obtained. This principle had at least always been acted upon in this country. With respect to the facts connected with the history of this law, he only felt it necessary to observe, that the whole question had come under discussion at the time of the Union; that then, and subsequently, it had undergone the examination of many eminent men, all of whom agreed in its political justice and its expediency. Sir M. Foster said, speaking of this statute, it was highly reasonable that such a law should not be suffered to expire. It was the best, if not the only means of preventing the commission of the crimes against which it was directed; and by the strong ties of domestic affection, to arrest the mad career of desperate ambition. If the object of the bill had been to alter the law as

\* Nec vero me fugit, quam sit acerbum, parentum scelera filiorum poenis lūi. Sed hoc præclare legibus comparatum est, at caritas liberorum amiores parentes reipublicæ redaret.—*Ad Brutum*, Ep. 12.

it affected some of the minor offences with which attainder had at present coupled, he would not have opposed it; but in its present shape, and applying as it did to high treason, he could not bring himself to approve of it. He therefore moved, as an amendment, that the bill be read that day six months.

The Earl of *Roxbury* supported the bill. The existing law was, he insisted, a direct breach of the 18th article of the Union. Even if it were thought right still to continue the law in England, where it had of old been the law of the land, yet the act of 1799 ought not to exist in Scotland, because it was an innovation upon the law of that country, and had been forced upon it only as a temporary measure. No man abhorred the crime of treason more than he; but his wish to see this law repealed was because it inflicted upon the innocent a punishment which had been deserved only by the guilty. The bill before the house was founded upon the principles of good faith and sound policy, and now that the fears and the feelings which had influenced the adoption of different measures had ceased, this ought to be allowed to prevail. He should therefore vote for the original motion.

Lord *Melville* said, the argument of the law of attainder and corruption of blood being founded on a breach of one of the articles of the Union, had been overrated. The ancient and common law of Scotland, down to the year 1690, had authorized the forfeiture of lands and honours, and for this he had the authority of Baron *Hume*. If the bill had been limited in its operation, and had only gone to assimilate the law of Scotland to that of England, he should not have opposed it; but he was not prepared to go the length of repeating it altogether in cases of high treason. The bill which had been introduced by Sir *S. Romilly* in 1814, and in which the offences of petit treason and murder were included, was one which seemed to meet the justice of the subject. He was prepared to consent to such a bill as that, or to one which should restore the operation of the ancient law of Scotland; but he felt obliged to oppose the bill before the house in its present shape, and he should therefore vote for the amendment.

Lord *Edwards* said it was impossible for any effort of human ingenuity to frame a law upon the principles of public policy which might not in its operation infringe upon some private rights. He therefore put out of view this argument, upon which some stress had been laid in the course of the debate. He looked at the existing law rather as founded upon the principle, that it was wise to deter men from the commission of crimes; for this reason, it had formed a part of the law of this land and of Scotland for many centuries. That it had such an operation was by some persons denied, but, as it appeared to him, without any reason for that denial. A feeling of affection for their families had often deterred men from joining in factions, which they would have united themselves to without a moment's hesitation but for that single consideration. He remembered to have heard a story of a Scotch nobleman who was on the point of engaging himself in the rebellion of 1745, and was prevented by a stratagem of his wife. She forged a warrant from the Secretary of State for his apprehension, and had him taken up until the danger was over, when she wrote to the Secretary of State

informing him of what she had done, and she always afterwards boasted of having preserved the family estate and honours. In rebellions, the greatest danger was to be feared from the co-operation of men of rank and wealth with the disaffected. Could it, then, be denied, that a law which secured the fidelity and obedience of men who had honours and property to transmit to their descendants, was highly efficacious? Annexed to this bill, he perceived some provisions which were not in themselves objectionable. They ought, however, to stand alone, that their merits might be separately judged and ascertained; he objected to the practice of coupling both together for the sake of securing the votes of a few individuals who were unwilling to relinquish the good because it was attended with evil. He concluded by expressing his intention to support the amendment.

The Lord Chancellor felt the importance of the measure before the house, and entertaining, as he did, a very sincere respect for the noble lord by whom it was introduced, he regretted that he could not approve of it as it stood. The law of forfeiture and corruption of blood, as applied to cases of high treason, afforded a vast security to the public peace. With respect to other crimes to which the same penalties attached, he was not prepared to say that he thought the law might not be safely and judiciously altered. If their lordships would take the trouble to read this bill, as he had done, they would see that it was extremely doubtful whether, under the terms of it, corruption of blood was taken away. Of honours to which it was evidently meant to apply, no mention occurred until the latter end of the bill; and although it was evident that honours were meant to be included, no lawyer would say that the words "lands, tenements, and hereditaments," which were the words of the bill, could be made to extend to honours. Another objection to the bill also was, that the course of the common law would in some instances be opposed and interfered with; because persons entitled to remainders in tail would, under the operation of this bill, become seized in fee upon the attainder of the tenant, and without the process of common recovery, by which alone an estate-tail could be legally converted into a fee. With respect to the principle of the law of attainder and corruption of blood, he thought, when it was considered how extensively ruinous the consequences of treasonable practices might be to the peace and the very existence of families, almost out of number, there was no reason to complain if some portion of the punishment of a defeated treason was made to fall upon the families of those by whom it had been set on foot. He saw how difficult it would be to restore to Scotland the law as it had existed before the Union; but he thought the best course that could be adopted would be to bring in another bill. If this should, however, go into a committee, he should be obliged to propose that high treason should be left out, and that petit treason and murder should alone be the subjects of the proposed alterations. Unless this were done, he should support the amendment.

When the house divided, the numbers were, For the amendment, 15—Against it, 12—Majority, 3.

The bill was therefore lost.



### *Amendment of the Criminal Law :— Threatening Letters :—Pardons.*

COMMONS, THURSDAY, MARCH 24.—Mr. Peel said, that the intent of his motion was to obtain leave to bring in two bills to amend certain points in the criminal law. The first regarded the law for sending letters, containing a charge of having attempted to commit abominable offences. A threat to charge any individual with an unnatural offence was punishable with transportation for life. But if, instead of threatening a charge of the crime itself, the charge should be limited to an attempt to commit that crime, it was only a misdemeanor. The moral offence, and the danger to the individual wrongly accused, were precisely the same, and there could be no reason for any difference in the punishment.—The other bill was to facilitate the benefit of the Royal grants of pardon. At present they must pass the great seal—a proceeding of considerable expense and delay—before the pardoned persons could be restored to what the law termed their credit and capacities. And until the grant had passed the great seal, their testimony, however necessary, could not be received in a court of justice. The bill would have the effect of restoring parties to their full privileges, upon a pardon being extended to them bearing the sign-manual, counter-signed by the Secretary of State, to all intents and purposes as if the same pardon had passed the great seal. The bill would also remedy a considerable defect in the law with respect to clergyable offences. For those who successfully pleaded their clergy, the punishment of death was formerly commuted to branding on the left thumb. This was not considered open enough to common observation, and the left cheek was afterwards substituted. This punishment becoming incompatible with modern civilization, the judges were empowered to impose a pecuniary fine or other punishment, according to their discretion : but the law which authorized this alteration did not give that complete restoration which was attainable by persons who had been punished in the old way : under the present bill, the infliction of the substituted punishment, whether fine or whipping, or imprisonment, would restore the parties to their civil rights. The whipping of females had been abolished by a recent statute, which, however, did not effectually restore them after suffering the punishment substituted. His bill also had relation to the offences of clergymen or clerks in orders, which at present formed an anomaly in the law. A clergyman might be hanged for highway robbery ; if he committed a misdemeanor, he might be transported ; if a clergyable offence, he could not be punished at all. The ground of distinction, if ever it had been good in policy, had long ceased to be so, and should have been done away. It was an obsolete principle at variance with the present state of society ; and, much as he inclined to support the privileges of the clergy, he could not uphold them in this instance. The bill would put clerks in orders upon the same footing with other offenders.—Leave granted.

### *Commitments of Felons.*

THURSDAY, JUNE 18.—Mr. Western moved for returns of all persons committed to gaol on

charges of felony, except upon the Home Circuit. His motive for moving for these papers was, to ascertain the period of confinement which persons had suffered previously to their being brought to trial, and the proportion between commitments and convictions. The evil of long confinements previous to trial was excessive, and called for some alternative measures. In the last seven years, out of fifty-two thousand persons committed, no less than thirty thousand were either acquitted, or no bills were found against them. Nearly one half of the persons committed to prisons were acquitted upon trial, although in many cases, these persons, previously to their acquittal, had suffered an imprisonment more than adequate to punish the crimes with which they had been charged.

Mr. Peel admitted that this was a circumstance which was not creditable to the judicial institutions of the country. He was almost in despair of finding a proper remedy for it. He thought that much might be done by increasing the lists of the country juries. In the increase of wealth and power, too much of the business of justice fell upon that body of gentlemen who formed the grand jury, who had to find almost all the bills, and who had in most instances, duties as members of Parliament to attend to besides. To increase the number of judges might be an advisable experiment, with a view to the more speedy clearing of the goals. No reason could be advanced for holding to the particular number of 12, if the interests of the country could be benefited by increasing it.

Mr. Denman thought that by extending the business of the quarter-sessions, and letting the King's commissioners go into places where the goals were unusually full, they might put off, for the present, the formidable expenses of new judges and an additional circuit.—The motion was agreed to.

### *Bradford Gaol.*

THURSDAY, MAY 5.—Mr. J. Smith, in rising to move for an address to his Majesty, for a copy of all correspondence between the Lord Lieutenant of the West Riding of York and the Secretary of State, respecting certain abuses and mismanagement in the gaol of Bradford, said, that an individual had been arrested for a small sum of money ; he soon after escaped from the bailiff, was speedily retaken, and lodged in this gaol, where, owing to the gaoler being an imbecile man, this prisoner was loaded with irons and handcuffs, and so kept for seven weeks, except at intervals of five minutes once a week, to enable him to change his linen. The prisoners at large complained of their treatment in this gaol ; and such was the petty tyranny which had been exercised, that on application to the Lord Lieutenant of the West Riding of York, and on reference to the Secretary of State, a prosecution was ordered, and one miscreant was convicted of cruelty to a prisoner in this gaol. He was glad to hear that no opposition was intended to his motion, and that every desire had been expressed to correct such abuses and punish the delinquents. He believed that in the treatment of paupers in some of the gaols, the utmost barbarity was inflicted.

Mr. Peel said that the hon. gent. had only done him justice when he anticipated that he would not oppose such a motion as this. If such abuses as were represented had been committed, he

should not attempt to vindicate the delinquents, or to oppose the production of any correspondence which was calculated to throw a light on the subject. He then stated, that upon receiving a communication from the Lord Lieutenant of this district, who had done himself great credit by his conduct in the business, he had referred the subject to the Attorney and Solicitor-general, and eventually ordered a prosecution, in which one of the parties had been convicted. He was most anxious to see the small local jurisdictions throughout the country avail themselves of the power which they now had of sending their prisoners to the general county gaol, upon paying a small quota of expense: indeed, he was disposed to go farther, and to say, that he did not think the general administration of the justice of the country would be injured if these petty courts were abrogated (hear).

Mr. *Abercrombie* concurred in the expediency of abolishing these petty jurisdictions.

### *Boundaries of Counties.*

TUESDAY, FEB. 22.—Mr. *F. Palmer* rose to move for leave to bring in a bill to empower magistrates at quarter sessions to effect exchanges between counties of insulated parcels of land, for the more convenient administration of justice. To provide a remedy for the inconvenience and perplexity which resulted from having certain parcels of land belonging to particular counties, situated at a considerable distance from those counties, was the object of the bill which he called upon the house to give him leave to introduce. The best method of prevailing upon persons to apply a remedy was to prove the existence of the evil: that he would endeavour to do by stating a few short facts. In the first place, Holy Island, which lay off the coast of Northumberland, did not, as one would naturally suppose from the situation, belong to that county, but to the county palatine of Durham. Another place belonging to Durham, called *Crake*, was situated in the centre of Yorkshire, 50 miles from the courts of the county of which it was called a part. In the same way a part of Derbyshire was to be found in Leicestershire; and a part of Huntingdonshire in Bedfordshire. From the town of *Oakingham*, a tract of land belonging to Wiltshire ran into Berkshire for about four miles in length. It was, in some places, two miles in breadth, and in others not half a mile; and there was no notorious mark by which the boundaries of the two counties could be defined. In like manner *Swallowfield East*, and *Swallowfield West*, both belonging to Wiltshire, were situated in Berkshire. He had the authority of all the magistrates on the *Oakingham* bench for stating, that the situation of the three parcels of land which he had mentioned had for many years produced a great inconvenience. He had seen a bill which had been framed with reference to this very subject, by Lord Chancellor *Hyde*, afterwards Lord *Clarendon*, who had resided for some time in the parish of *Swallowfield*. The bill was drawn up with great accuracy: it enumerated every parish, tithing, and village within the three parcels of land before mentioned, as well as all the evils which had arisen, or were likely to arise, from their locality, and the remedy which it proposed was, that those three parcels

of land should be annexed for all purposes whatever to the county of Berks—that all power and jurisdiction over them should be taken from the Lord Lieutenant and the magistrates of Wiltshire, and vested in those of Berkshire, with full authority to raise all dues, subsidies, and taxes whatever. The bill also contained a saving clause, guarding the right of every man's inheritance. Upon the original division of the country into counties, for the purposes of justice, police and defence, these isolated spots were attached to distant counties by the influence of men of great rank and power. *Dugdale*, in his work on *Warwick*, spoke of a spot of ground which interfered with his survey, and which he found to belong to the county of Worcester. In giving an account of it to his readers, he said that it was "one of those parcels of land which are so frequently to be found severed from the county to which they belong." He ascertained that this piece of land belonged to the church of Worcester, which, upon the general division of land throughout the kingdom, had influence enough to preserve it, and ever after it continued to be taxed as part of the county of Worcester. In Devonshire, on the hither side of the river *Tamar*, was a parcel of earldom land which had always been taxed as belonging to the county of Cornwall. In the county of Berks was a piece of land called *Twynford*, which belonged to Wiltshire, although it was 20 miles from that county; the reason was, that it constituted part of the possessions of the Abbey of *Malmesbury*, in Wiltshire. He knew that the house would be likely to object to any thing like innovation, and therefore he would show a precedent for the measure which he proposed. In 1698, the counties of *Ross* and *Cromarty* were by an act of session united for all purposes, and had since been considered as one county by almost every act of parliament which had been passed relative to them. In 1740, many changes took place in the geographical distribution of the county of *Dorset*; and a variety of alterations had at different times been made in counties by forming several small hundreds into one, and by dividing large parishes, in order to collect the poor rate more easily. There was one precedent which he could not omit to mention, because it would have weight with the house as being one of its own measures—he alluded to the act of the 41st of *George III.*, which was passed for the purpose of annexing *Malta* to the map of Europe. The hon. gent. concluded by moving for leave to bring in the bill.

Mr. *Peel* had no intention whatever of opposing the measure: on the contrary, he would give the bill every consideration, although he could not at present pledge himself to support it. There would, probably, be some difficulty as to the detail of the measure. The hon. gent., for instance, had not stated what he intended to do as to the elective franchise. Again, what arrangement was to be made with respect to county rates, assessed for works which were already completed, but not paid for? The bill, further, only proposed to give the power of exchange to counties; it was not provided what a county should do which desired to take, and had nothing to offer in return.

Mr. *F. Palmer* said, that with respect to the elective franchise, it would be impossible to make any new arrangement at the eve of a dissolution of parliament. His view was, that no

alteration should take place until one year after the next general election. For the matter of county-rate, the sum at stake would be so trivial that it might be easily disposed of.

Leave was then given to bring in a bill.

### *Norfolk Assize Town.*

THURSDAY, FEB 24. — Colonel *Wodehouse* submitted to the house a motion respecting the removal of the Spring Assizes for the county of Norfolk from the borough of Thetford to the city of Norwich. The grounds upon which he made this motion, were already before the house in a petition which had been presented from a numerous and highly respectable body of the inhabitants of the county. The main grievance which they complained of was, that they were under the necessity of carrying the prisoners a distance of thirty miles from the gaol to the place at which they were to be tried, and if they happened to be convicted, the same distance back again to the gaol. This evil had existed for a great length of time, and representations of it had frequently been made, but hitherto without procuring any alteration. There was, however, no time, at which the desired alteration could be more justly and properly made than the present. A large and commodious gaol had lately been erected in the city of Norwich, at an expense of 50,000*l*. Upon former occasions it had been objected, that to remove the assize would be to interfere with a branch of the prerogative. He denied, however, that the prerogative was in any way concerned in the measure he proposed. The places at which the assizes were held had been in all instances fixed by acts of parliament. That by which Thetford was appointed for the county of Norfolk, was passed six centuries ago. At that period only one assize was held for the two counties of Norfolk and Suffolk, and Thetford was well situated for the purpose, being upon the confines of both counties. Applications had been made to the Chancellor, and to the judges, who had declined to remove the assizes, but expressed no reason for their refusal. It was, in consequence, imputed to them that they were actuated by merely selfish motives. He could not bring himself to believe, that persons holding the high offices which they were intrusted with, could prefer their own convenience to that of the public. The hon. member concluded by moving, "that the petition of certain magistrates and others of the county of Norfolk, praying that the spring assizes should be removed from Thetford to Norwich, be referred to a select committee; and that the counter-petition of the mayor and burgesses of Thetford be referred to the same committee."

*Sir John Sebright* supported the motion.

*Mr. N. R. Colborne* opposed the motion. The same application had been, he said, repeatedly made, and had always failed. The assizes for the county of Norfolk had been, as was admitted, held at Thetford for more than six centuries. He did not mean to say that the antiquity of the practice was a conclusive reason against all change, but it must at least be confessed, that unless a very strong case could be made out, no alteration should be attempted. Large sums had been expended on the gaol and court-house at Thetford out of the funds of individuals in the town, and not out of the county-rate,

by which those structures had been rendered as convenient as any in the kingdom. There could scarcely be a more direct attack upon the prerogative than was meditated by this measure. No less so than to interfere with the appointment of Lord-Lieutenant or the sheriffs of counties. The petition which he had presented prayed that the house would not permit any interference in the ancient practice. That petition was signed by forty-eight magistrates of the county, eight of whom had served the office of high sheriff; and it was impossible to collect names of greater respectability. He concluded by moving that the other orders of the day be now proceeded with.

*Mr. F. Buxton* said, that the petition in favour of the proposed removal of the assizes was not only highly respectable as to the signatures which were affixed to it, but as it proceeded from the Lord-Lieutenant of the county, from the sheriffs, and from a large body of the magistracy, it might be reasonably supposed to convey the sentiments of those who were best qualified to pronounce on the expediency of the proposed measure. The important question for the house to consider was, however, whether the administration of justice was impeded by the assizes being held at Thetford. The general convenience of the county would be, as it ought to be, more considered than that of the judges; and the interests of justice more than those of the borough of Thetford. The unnecessary exposure of prisoners on their way to and from trial was most cruel and illegal, and of itself sufficient to induce the house to interfere. He happened some time back to be riding along this line of country through which the prisoners passed; and observing a crowd of persons collected near a public-house, stopped to ascertain the cause. He found that a multitude was collected round a waggon, in which the unfortunate criminals were returning from the assizes; and one unhappy individual, who was to be executed on the following day, was exposed to the vulgar gaze of the mob, who were continually asking "which is he?" in his hearing. Now, supposing the unfortunate *Mr. Fauntleroy's* case, instead of occurring in Middlesex, had taken place in Norfolk, how cruel and unnecessary an exposure it would have been, to drag him thirty miles through the country to trial, and thirty miles back to gaol, exposed to the vulgar stare of an inquisitive and curious rabble. A friend of his said, "it would serve him right." It could not serve him right; because the law of the land had apportioned to certain offences, certain punishments, and therefore it was unjustifiable to augment the distress or harass the feelings of the unfortunate delinquent. But the evil did not end here. When the prisoners arrived at Thetford, they were placed in a prison, which, if he were to describe, would, he was certain, shock and offend the house. Some improvements had probably been made since he saw it; but it was still disgraceful enough, and if a prisoner had to bring up witnesses from the remote parts of the county, they would have to travel fifty miles, the difficulty of which it might be believed not unfrequently prevented their attempting the journey. For these reasons he should support the motion.

*Mr. Baring* objected to the motion, because if it were adopted in this instance, it must also be applied to a great many other counties.

*Mr. Peel* objected to the motion, on the ground

that the House of Commons had no proper jurisdiction in the case, having already transferred it to the chancellor and the judges. The question had been referred to the Lord Chancellor, who had decided against the removal. He was of opinion that the consideration of questions such as the present, with which local interests were mixed up, could not be left in better hands than those of the judges.

Dr. Lushington complained that the Rt. hon. Secretary had not stated to the house the grounds upon which the decision of the judges was founded. It appeared to him, that there was no just reason for holding the assizes at Theford. Under the present plan the interests of the many were sacrificed to the interests of the few. The assizes were originally held at Theford, because it was the most convenient place; but now, when that reason no longer existed, why should they not be removed?

Mr. Huskisson said, that the House of Commons was not the place for appeals of this description; the law had vested the necessary power in the hands of the Lord Chancellor and the judges. As for the distance of Theford, as an assize town, almost every county in England stood in the same situation. Prisoners were brought much farther to York, and to Lancaster, than they could be from any part of the county of Norfolk to Theford.

Mr. F. Smith said, that if the inconvenience existed every where, the best thing would be a general alteration.

The house then divided, when the numbers were—For the motion, 21—Against it, 72—Majority against it, 51.

### *Bills to prevent Cruelty to Animals.*

THURSDAY, FEB. 24.—Mr. Martin moved for leave to bring in a bill for the abolition of bear-baiting, and other cruel practices. In the interval which had elapsed since the last session of Parliament, he had conversed with almost every police magistrate in the various districts of the metropolis, and indeed with many magistrates in different parts of the country, and it was their unanimous opinion that these cruel practices ought to be put down without further delay. He had been told over and over again by them, that nothing was more conducive to crime than such sports—that they led the lower orders to gambling—that they educated them for thieves—and that they gradually trained them up to bloodshed and murder. The reason why the police could not meddle with these practices was, that they were not in general exhibited for money. He held, however, in his hand an *affiche*, which was placarded throughout the town quite as publicly as any that announced the benefit of any singer at the Opera. It announced that "Billy, the phenomenon of the canine race, and superior vermin killer," would go through his wonderful performances on Tuesday next, and that the receipts of the pit would on that evening be presented to the distressed widow of Billy's late proprietor (a laugh). It then stated, that "a dog-fight—a turn-loose match with two dogs and two fresh badgers—and a drawing match," would follow this astounding spectacle; and that several dogs would then be tried at a bear previous to their being sent out upon their travels to foreign climes (a laugh). The

doors were to be open at seven o'clock, the performance to begin at half-past, and the admittance to be 3s. each. The whole of the sports were said to be instituted by the "express invitation of several noblemen and gentlemen of the first distinction" (a laugh). He expected that this declaration would secure him the vote of the learned member for Winchester. On a former occasion, that learned member had said that he (Mr. Martin) meddled only with the sports of the poor, and turned away his eyes from those of the rich. The learned member had said, "Show me that the nobility take part in those sports, and I will join with all my heart in putting them down." He was sorry to say, that to his knowledge some persons of rank and name did patronize these cruel practices; and he mentioned the fact now to secure the vote of the learned gent. (hear, hear). The persons to whom he alluded deserved to be stigmatized with severer reprobation than the poorer classes, against whom alone his bill was said to be directed. Their education ought to have given them feelings averse from cruelty and bloodshed, and to have taught them that their example would be of vast importance in propagating such feelings among their inferiors in station. He could see no rational objection to the measure he proposed. By the *Marylebone Act* all bear-baiting and other barbarous sports were prohibited within that parish; and it appeared to him difficult to assign any reason why, if the parish of *Marylebone* were to be exempt from such inhuman exhibitions, the parishes of St. George or of St. Margaret, or of any other saint, were to be disgraced and disgusted by them, (hear, hear). It was not, however, merely bear-baiting, and sports of a similar nature, that he wished to abolish; there were other practices, equally cruel, with which he thought the legislature ought to interfere. He would give them an instance of what he meant. There was a Frenchman, called Magendie, who was about to exhibit in London, and whom he considered a disgrace to society. He was in the habit of performing experiments so atrocious as almost to shock belief. He would not trust himself to express a further opinion upon this fellow's conduct, but would merely say, that he looked upon those who witnessed it, without interfering to prevent it, almost in the light of criminals. On one occasion, this Mr. Magendie got a lady's greyhound, for which he paid the sum of ten guineas. He first of all nailed its front, and then its hind paws to the table with the bluntest spikes that he could find, giving as a reason for so doing, that the poor beast might tear away from the spikes, if they were at all sharp and cutting. He then doubled up its long ears, and nailed them down to the same table with similar spikes (loud cries of hear, and shame). He then made a gash down the middle of its face, and proceeded to dissect the nerves on one side of it. First of all, he cut out those nerves which belong to the sight, and whilst performing that operation, said to the spectators, "Observe, when I pass my scalpel over these nerves the dog will shut its eyes." It did so. He then proceeded to operate upon those of taste and hearing. After he had finished those operations, he put some bitter food on the tongue of the dog, and hallooed into his ear. The dog repudiated the food, and was insensible to the sound. This surgical butcher, or butchering

surgeon—for he deserved both names—then turned round to the spectators, and said, “I have now finished my operations on one side of this dog’s head; as it costs so much money to get an animal of this description, I shall reserve the other side till to-morrow. If the servant take care of him for the night, according to the directions I have given him, I am of opinion that I shall be able to continue my operations upon him to-morrow with quite as much satisfaction to us all as I have done to-day; but if not, though he may have lost the vivacity he has shown to-day, I shall have the opportunity of cutting him up alive, and showing you the peristaltic motion of the heart and viscera.” (Great disgust was manifested by the house at the statement of this experiment.) He was aware of the necessity of making some experiments on living animals; but then they should be performed in such a manner as to cause as little suffering as possible. That was the opinion of the most eminent professors of medical science. He held in his hand the written declarations of Mr. Abernethy, of Sir Everard Home, of the professors of medicine at Cambridge and Oxford, and of several other respectable medical gentlemen, to that effect. They all, he believed, united in condemnation of such excessive and protracted cruelty as had been practised by this Frenchman. He had heard that this fellow was again coming to this country to repeat his experiments. He therefore had mentioned it to the house, in the hope that it would gain publicity, and excite against the perpetrator of such unnecessary cruelty, the odium he merited. He trusted that when it was known, the fellow would not find persons to attend his lectures, and would thus be compelled to wing his way back to his own country, to find in it a theatre for such abominable atrocities. He concluded by moving for leave to bring in a bill to prevent bear-baiting and other cruel practices.

Sir M. W. Ridley said, that he should oppose the motion, because he considered legislation on such paltry subjects to be quite unnecessary and uncalled for (hear, hear).

Mr. Martin did not conceive this subject too paltry for legislative notice, as the hon. member represented it. All the magistrates of the metropolis called for a law to put down these practices: was not their call entitled to some respect and attention? It was not creditable to the house—nay, more, it was discreditable to any member, to rise and say, not that he would negative the bill when it was brought in, but that he would not permit it to be canvassed at all in parliament. Would any man get up and boldly say to them, “I am such an amateur of cruelty, that I will not even allow a measure to be discussed which tends to abolish it?” Such language no man would dare utter; and yet what had been said that evening approximated very closely to it. He was afraid that he should be defeated upon this bill; but if he was, the glory would be with him, and the disgrace with those who vanquished him (hear, hear). He was, however, confident that at some future period it would be passed into law. He would not say that it would meet with that success whilst under his direction; but if the gentlemen opposite would take it up, as they had done his bill for giving counsel to prisoners accused of felony, which they had almost brought to a successful issue, he would willingly surrender it into their hands, and

would rejoice at seeing them obtain that success, which, at present, he was afraid, would be denied to his efforts.

Mr. F. Burton did not think this subject so insignificant as not to deserve the notice of the house. The hon. member (Mr. Martin) had conferred a sensible benefit upon the community by his continued exertions in the cause of humanity. His bill had already produced a beneficial and extraordinary change in the manners of the lower orders, and was far from having occasioned that unnecessary litigation which some gentlemen had anticipated. He had an account of the prosecutions which had been instituted under it. They were 71 in number, and in 69 cases convictions had been obtained. He had heard from those who attended Smithfield market, that a great revolution had taken place in it, owing to the exertions of the hon. member. Even those who were the first subjects of his attacks, had recently come forward to subscribe to the funds of “The Society for preventing Cruelty to Animals.”

Mr. Butterworth hoped that the hon. member would extend the power of his bill to the savage, abominable, and unchristian practice of prize-fighting, which had led in many recent instances to the loss of life.

For the motion, 41—Against it, 29—Majority, 12.

FRIDAY, MARCH 11.—On the motion that the bill to prevent Cruelty to Animals, be read a second time,

Mr. Heathcote opposed the measure. He did not know that there were so many as two bears in the metropolis, until the compassionate narrative given a few nights ago by the hon. mover. He had, in consequence of the hon. gent.’s information, paid a visit to the bear in Duck-lane; and he must say, that so far from finding him in the distressed and emaciated condition in which he was said to be, a better-fed and a better-conditioned bear—a more healthy and hopeful cub, he had never seen (laughter). The bear had, it was true, been engaged in fighting in his early days; but within the last six years he had become incapable of that exercise, because he had grown too fat (much laughter). If the bill were good for any thing, it should prevent cruelty in the upper ranks also. It should prevent hunting, shooting, and fishing. Could they make one law for the rich and another for the poor? There was no justice in the measure, and he would take the liberty to move that the bill be read a second time this day six months.

Mr. Peel, though ready to do justice to the motives of the member for Galway, must oppose his bill. His hon. friend seemed to take for his motto “*nihil humani à me alienum puto*.” But if the hon. member wished to prevent all cruelty to animals, let him bring in a bill to prevent field sports of every description, and he could at once understand it; but he confessed that he did not see upon what ground monkeys, and badgers, and bears, were entitled to a distinct and separate legislative enactment for their protection. Let them for a moment compare bear-baiting with stag-hunting, and they would find that the former animal had a considerable advantage, because he was allowed the use of his natural powers, and was only attacked by one or two dogs, whereas, before a stag hunt took place, they deprived the animal of his horns, which were, in fact, his only defence.

tual means of resistance, against the twenty or thirty couple of dogs by which he was pursued; in consequence of which the poor animal must be worried to death, unless the huntsman happened to be in time to save him by calling off the dogs (hear, hear). He would ask his hon. friend whether there was any thing more cruel in dog or cock-fighting, than in pigeon shooting? A gentleman made a wager of 200 sovereigns with his particular friend, that he would kill the greater number of pigeons in a given number of shots; and a number of pigeons were accordingly provided and shot at, at twenty feet or twenty yards distance, without mercy. Was not this as cruel as any treatment to which a monkey or a dog was exposed, and yet how was the cruelty to be remedied? If, then, they could not provide against that which might be called cruelty in every case, why, he asked, were they to interpose legislative enactments for the protection of a certain class of animals? Was not this instituting a favoured class of animals? One part of the bill stated, "And be it further enacted, that if any person in any part of the United Kingdom of Great Britain and Ireland, shall, after the — be concerned or engaged in, or shall promote or encourage, or aid or assist in promoting or encouraging any bear-baiting, dog-fighting, monkey and dog-fighting, or badger and dog-fighting, or cock-throwing, or cock-fighting, or shall in any manner wantonly and cruelly beat, abuse, or ill-treat any of the above-mentioned animals, or any domesticated animal, it shall be lawful for any person who shall witness such offence, to apprehend such person so offending, and to convey such offender before any justice of the peace or other magistrate, &c." But this was not the worst; there was another passage empowering magistrates, upon view of any such practices which might be deemed to fall within this act, to commit and punish without charge or examination. "And be it further enacted, that if any justice of the peace, or other magistrate, shall witness such offence as aforesaid, within his jurisdiction, it shall be lawful for him, on his view, to convict and punish the party or parties so offending, in such manner as he might do under this act, upon information and proof made before him of such offence." So that a magistrate who had slept upon a bed the night before, filled with feathers, plucked from the back of a living goose—riding home from a fox-chase, to dine upon crimped cod—might take up, commit or otherwise punish any person whom he might find engaged in fighting "a domesticated animal, or otherwise ill-treating the same." This could never be borne. He implored his hon. friend, in his humane zeal for the well-being of the beasts that perish, not to be wholly unmindful of the class of animals to which he himself belonged (a laugh). Was it to be endured that a gentleman, under the cruel necessity which the defects of science imposed upon him, following up the improvements of his particular faculty, for the purpose of enlarging the limits of knowledge and preserving the health of human beings—was it to be endured that such a man, so engaged in the pursuits of his calling, though it were known that he had, in its fair exercise, committed cruelty like that imputed to Dr. Magendie, (which statement was, however, denied) should be taken up, imprisoned, or fined, at the discretion of a magistrate who might happen to be present? He objected to the bill, because it tended to create

a favoured class of animals. If the principle were good at all, it ought to be extended to all cases of cruelty. Let his hon. friend introduce a bill to prevent hunting, shooting, fishing, and other sanguinary sports, and then bear-baiting, and cock-fighting, might fall within it. At present his measure was not one of equal justice.

Sir James Macintosh would support the bill notwithstanding the ill-directed pleasantries and grave censure of the rt. hon. gent. who had in criticising the form of the bill, actually aimed at the principle. He himself was strongly opposed to any instances of petty, trifling, and vexatious legislation: but this was a point in which the moral welfare of the lower orders was deeply concerned; and the effect of reprobating by Parliamentary denunciation, practices abhorrent to the common feelings of humanity, would be felt through the whole community. The argument drawn from field sports would not apply. Bear-baiting was not a national sport.—It had no insuperable habits and prejudices to plead for it. It was not like gaming, which had gone on and flourished, notwithstanding all that had been done to repress it within the last three centuries. The measures used to repress it had, in fact, only given an advantage to the dishonest and desperate character, by encouraging dishonesty and fraud. As the laws had been found inoperative, so were the punishments inflicted in opposition to every principle of justice. Of what avail was it to fine the keeper of a gaming table 5,000*l.* or send him to the tread mill, while the men who gamed at the house were publicly known, and allowed to go at large? He admitted that much evil might be done by the prejudices of certain classes, and the readiness of public writers to pander to those feelings. Anatomy, which was the basis of sound medical knowledge, was suffering from them. It would very soon be out of the power of the English student to finish his education at home. He must seek in the schools abroad for those accommodations to his studies which hitherto had attracted foreigners to our own shores. What would the great practitioners and luminaries in physiological science have done, had they been impeded in their examinations as the practitioners of the present day were likely by the growth of those prejudices to be impeded? The immortal Harvey could not have made his discovery of the circulation of the blood without the aid of practical anatomy. No man, he believed, would accuse him of encouraging cruelty to animals (hear, hear): but still he would say, that of all the acts of authority which man exercised over the inferior order of animals, not one was more excusable, for none was fraught with greater benefit than the performance of those scientific experiments, the object of which was to mitigate suffering, to remove disease, to establish health, and to prolong life (hear, hear). It was true, the process which led to this perfection in science was harsh, but the results were beneficent. He would now say one word with respect to the learned and highly distinguished physiologist, Dr. Magendie, with whom he had the honour to be acquainted. He was no judge of the importance of Dr. Magendie's discoveries, but the concurrent voice of all those who were judges of the matter was loud in his praise. He believed that the hon. member for Galway had noticed the most aggravated parts of these experiments, but he must be per-

mitted to observe, that none of these experiments, the most cautiously and the most humanely performed, would bear discussion. When he was residing at Paris, he was introduced to Dr. Magendie by their mutual friend, Baron Humboldt, and, being in a state of ill-health, he was attended by Dr. Magendie, as his physician. It had been his misfortune to have suffered much from illness, but he always felt, as a considerable alleviation of that misfortune, the genuine sympathy, the true kindness, the unaffected tenderness, which he had constantly experienced from the able and intelligent medical practitioners whose advice he had sought; but he was bound in justice, and he should be base and, ungrateful if he did not state the fact, that he never had been treated, amongst medical men, with greater care and tenderness, than he had received from Dr. Magendie (hear, hear). If he had, in the ardent pursuit of science—if he had, in his anxiety to penetrate into the hidden secrets of nature, gone beyond those bounds which fine feeling would appear to prescribe, it certainly was a great consolation to find that his general character for tenderness and humanity—that character which was of so much consequence to his patients—had not been impaired by his professional pursuits.

Mr. G. Lamb said, that though he was not fond either of bear or bull-baiting, still he must give his vote against any legislative interference with those practices. He was very well pleased with those enactments which prevented persons from mistreating animals that were intrusted to their care, which had the effect of making hackney-coachmen and drovers a little more humane. But the moment they interfered with the sports of the lower orders, then the observations thrown out by the rt. hon. Sec. (Peel) relative to the sports of the higher orders, applied with a force that could not be answered. His learned friend had spoken of the games at which this bill was levelled as not being the sports of this country; but he could show that they had been patronized by the great and powerful, centuries ago. Evelyn, describing a bull-bait that occurred in the time of Charles II., stated, that "One of the dogs was thrown so high, that he fell into the lap of a lady of rank in the second gallery. Two dogs were killed. The sports ended with the ape on horseback; and I retired, wearied with the filthy scene, which I had not witnessed for many years" (hear, hear). He would read an account of an exhibition of the same kind, which took place in 1702, in the reign of Queen Anne. He found the bill amongst the papers of the Vice-Chamberlain of that day, who was one of the prime *beaux* of the Court. The bill was headed with the queen's arms, and ran thus:—"Anna Regina. At the Bear, in Hockley-in-the-Hole, near Clerkenwell-green. This is to give notice, to all gentlemen, gamesters, and others, that, on the 17th of April, a baldfaced dog of Middlesex, will be matched against a dog of Cow-cross (laughter). A guinea each dog. He that shows the fullest and finest game, and comes most clean to hand, wins all: and a great mad bull will be turned loose in the yard, with fire-works all over him, and two or three cats tied to his tail (shouts of laughter). Also other varieties. A bull baiting and a bear-baiting. Beginning at two o'clock in the afternoon. *Vivat Regina*" (laughter). He did not quote these instances in approbation of such

proceedings, but merely to show that they had been encouraged as national sports. For his own part, while there were persons who liked to be amused in this way, he would rather see them so amused, than not amused at all (hear).

Mr. W. Smith differed entirely from the opinion of his hon. friend. If there were any persons who could be amused by such exhibitions as were described in the paper he had read, he trusted they would never be amused while they were in existence. Much good had been done by the exertions of his hon. friend (Mr. Martin), as might be seen in every market in London, and he hoped he would persevere in his humane efforts. It was said that this bill went to interfere with the amusements of the lower orders; but was that so new a circumstance? Were the public-houses as open to the dances of the poor, as the great taverns and assembly-rooms were to those of the rich? Was there not an interference here with the amusements of the lower orders? They were all in the habit of reading books of travels, and with what severity of remark did they find their countrymen constantly speaking of the bull-fights of Spain—a sport which was so much admired by the higher as the lower orders in that country. They readily saw those faults in others which they refused to correct in themselves. In his opinion, the habit of seeing bull-fights had prepared the Spaniards to look without horror at an *auto-da-fé*. It was certainly a step towards that goal of cruelty. Hogarth had well described the progress of cruelty in a series of prints. The hero of the piece began his career by spinning a cock-chaffer, and terminated it by the murder of the woman whom he had seduced.

Mr. Martin, in reply, contended, that nothing which had been advanced against his bill, impugned in the slightest degree the principle on which it proceeded. The rt. hon. Sec. (Peel) had argued, that because he did not legislate for the stag or the innocent hare, he ought not to legislate on the subject at all. But was he to do nothing because he could not effect all? He, however, threw the argument back on his rt. hon. friend, and as he so much commiserated the case of the unfortunate stag, he called on him, as an adviser of his Majesty, to counsel His Majesty to dismiss the stag-hounds (laughter). An example of that kind, set by the King, would have a very good effect, and perhaps would put an end to the stag-hunting of a noble lord, who kept up that sport near London. He (Mr. M.) did all he could to remove cruelty of every description; but they must legislate on these matters by degrees. It was said that this bill was against the sports of the people: but it was a consolation, that if they were legislating against the sports of the people, they were legislating with the people on their side; and on behalf of the unvitiated population of England, he claimed the enactment of this law. He would now say one word as to Dr. Magendie. He did think, notwithstanding what had been said, that Dr. Magendie proposed experiments the most horrible and the most wanton that ever were proposed by any individual. He did not deny, that some experiments for the discovery of some latent fact might be performed with propriety. But the experiments of Dr. Magendie were not new, they had been performed a thousand times in Paris; and he came over here to show them as a dramatic exhibi-

bition. He had the authority of great physicians, of the greatest English anatomists, and amongst the rest the Regius Professor of Anatomy at Oxford, against the practice. The last mentioned individual was of opinion, that the attention of the public ought to be strongly awakened to the subject (hear, hear). He was content to be called the maligner of Dr. Magendie; but he could read from that individual's own works a greater condemnation of himself—he could point out a more refined degree of cruelty than any he had stated. It was said that it was not a greyhound that had been tortured, but a spaniel—not a large dog, but a small one. This reminded him of a scene he had once witnessed. He went to Newgate, and saw a man who had been convicted of the murder of his wife. He was attended by the Rev. Mr. Ford, the then ordinary. The prisoner was exclaiming, "If I die for this crime, I am a murdered man, and my blood will rest on the prosecutor and the jury." The clergyman said, "Why you were proved to have been guilty of the murder by ten or twelve most respectable witnesses. It was sworn that you beat out the brains of your wife with a mallet. "Yes," said the prisoner, "but I beat out her brains with a pole-axe. I am, therefore a murdered man" (laughter). He would state to the house what had been the conduct of Dr. Magendie on another occasion in England. The Doctor, whilst he was operating on a dog, placed his mouth near the ear of the animal, and said, "*Restes tranquille, restes tranquille*;" and then turning to the spectators added, "*Il seroit plus tranquille s'il entendait Francois*" (a laugh). The hon. member concluded by expressing a hope that the house would suffer the bill to go into a committee.

Sir F. Burdett said, that as everybody agreed that a beneficial result had ensued from the former bill which the hon. member had introduced, he thought it should naturally lead to the conclusion that they could not do harm in going a little further with him. It was not, he thought, fair to draw any comparison between field sports and these sports (if they could be so called) which the hon. member desired to put down. The former were conducive to health and activity—every faculty of the body was called into action in their pursuit: but the latter were merely spectacles of unmix'd barbarity—animals being set to tear each other to pieces for the gratification of a multitude who stood passively looking on. It appeared very strange that in the course of the discussion the most important part of the subject had been overlooked—he meant the injurious effect which such scenes had on the morals of society. Putting all other considerations out of view—considering that he was not legislating on a principle of humanity towards brutes, but for men—he could not avoid giving his support to the bill. The persons who joined in the sports which would be affected by the bill were the very nuisance of society. The neighbourhood where the sports were pursued was the worst in the metropolis. The common law of England justified the principle of interfering with regard to any thing which had a tendency to injure the morals of the community, and cruelties were in principle punishable by common law at the present moment. The object of the bill was merely to carry that principle into effect in those atrocious cases which shocked the public mind. He did not think that the powers of the bill would be abused:

on the contrary, he feared that they would fall into disuse, unless the hon. member for Galway could appoint a successor as industrious and persevering as himself, to see its enactments carried into effect. For these reasons, the bill should receive his support (hear, hear).

The house then divided: the numbers were—For the amendment, 50—Against it, 38—Majority, 18.

LORDS, WEDNESDAY, MARCH 16.—Earl Grosvenor presented a petition from Mr. John Gale Jones, praying their Lordships would put a stop to the cruelties practised on bears, badgers, and other beasts in the parlous of their Lordships' House. In presenting the petition, the Noble Earl said he was not quite ready to support its prayer. Not that he was friendly to these cruel sports, but because he doubted how far it was prudent to legislate concerning them more than had been already done. There was, he was ready to admit, a great difference between those sports which were essentially cruel, of which, probably, the cruelty constituted the whole amusement; and those in which the cruelty was only an accompanying circumstance, and the chief amusement was derived from the healthy exercise. The former he was not at all disposed to protect; and as to the latter he should think it a disgrace to country gentlemen if they were to pursue them to the neglect of their other more important duties, or require them as motives to make them reside on their estates: still he was not prepared to say such sports ought to be suppressed, and he did not very well see how one species of sports could be put down and the other preserved.—The petition was then laid on the table.

COMMONS, THURSDAY, MARCH 24.—Mr. Martin moved for leave to bring in a bill to amend the act for preventing cruel and improper treatment of cattle\*. As the act now stood, the maximum of punishment that could be inflicted was a fine of 5*l.*, and in default of payment, imprisonment for a month or two. He thought that every gentleman would acknowledge that animals ought to be protected either in their own right, or as the property of the individuals to whom they belonged; and if that principle were admitted, he did not see how it could be disputed that the punishment for wantonly injuring them ought to be increased. In the present state of the law, if a man intrusted with the care of a horse should knock out its eye from malice to its owner, or, as had recently been done, should tie its tongue to a gate, and then beat it on the head till it tore its tongue out, it was impossible to do more to such a wretch than fine him 5*l.*, or imprison him for a month or so. Now he proposed to make such an offence a misdemeanor, and to leave the punishment of it to the magistrates at quarter sessions. He also intended to add a clause to the bill, to authorize magistrates at the quarter sessions to award to the prosecutors of such offences a reasonable compensation for the trouble and expense incurred in prosecuting them.

Mr. F. Palmer was of opinion, that the house had already proceeded too far in legislating upon this subject. It was but that morning, as



he and a friend were in a hackney-coach, when one of the horses suddenly becoming restive, the coachman administered three or four blows to the horse, but not with any savage violence, that a gentleman who saw the occurrence immediately came forward, and threatened to carry the man to a police-office if he did not instantly desist from beating the animal. It was to prevent the further increase of such vexatious interference, that he should oppose the present motion.

Mr. Lockhart thought that the house had already gone far enough; and he should therefore advise the hon. member not to press his motion. His former bill conferred great credit on the hon. member, and had already effected a beneficial change in the manners of the people.

Mr. Martin could not have believed that any hon. member would have stood forward so prominently, as the member for Reading had done to defend the barbarities which were practised upon horses and cattle. He was sure that the hon. member's constituents would not like the hon. member the better for the sentiments he had that night expressed. The hon. member, at the recurrence of another election, might find it difficult to secure his return (order). The present bill was a mere transcript of a bill which had been approved some years ago by all the law lords, by Lord Ellenborough, Lord Erskine, and the present Lord Chancellor.

The house divided. For the bill 23—Against it, 33—Majority, 10.

THURSDAY, MAY 5.—Mr. Martin renewed his motion for leave to bring in a bill to extend the provisions of the act 3 Geo. IV. c. 71, to prevent the cruel and improper treatment of cattle. In the measure he proposed, he had adopted the precise words of a bill which had formerly been drawn up by the present Attorney-General.

After a few words from Mr. Peel, leave was given to bring in the bill.

THURSDAY, JUNE 21.—Mr. Martin having moved the second reading of his bill,

The Attorney-General said: that three years ago, a bill had been introduced by his learned friend Sir J. Mackintosh, which rendered it a felony punishable with transportation, to wound or maim cattle. Now, the hon. member (Mr. Martin) had brought in a bill, reducing the offence to a misdemeanor; but he had also inserted a proviso, that nothing in his bill should be construed to extend to the bill introduced three years ago by his learned friend; thus declaring that a particular offence was a misdemeanor, which, by the former bill, the provisions of which were not to be repealed, was declared to be a felony. So that the offence was, it appeared, to be both a felony and a misdemeanor. Such a contradictory measure as this could not pass into a law. He hoped the hon. member would not say that he (the Attorney-General) was the author of the bill, as the proviso in question had been introduced since it had been submitted to his inspection. He had taken no farther part in the formation of the measure than to suggest a few verbal amendments.

Mr. Martin maintained, that this was a bill of the Attorney-General's, save and except that part to which allusion had been made. The bill which the Attorney-General had formerly

consulted with him in drawing (a laugh), for preventing the ill-treating, wounding, or maiming of cattle, was nearly the same as the present. When he applied to the Attorney-General on the subject, the learned gent. said he saw no objection to such a measure, if it contained the words; "wantonly cutting, maiming, or wounding." If the Attorney-General thus stood forward to oppose bills which had in view the interests of humanity, he feared the public would look upon the House of Commons as a very bad place for the education of a judge.

Mr. C. Wilson said, the offence of wounding cattle was at present punishable as a felony; and he was glad of it: but there might be cases of so slight a nature as not to call for so severe a punishment. He thought the object of the hon. member (Mr. Martin) would be answered by wording the clause differently, so as not to suffer the misdemeanor and the felony to clash together. This might be done by saying that certain acts "may be punished as misdemeanors."

The house divided. For the second reading, 18—Against it, 27—Majority against it, 9.

THURSDAY, JUNE 23.—Mr. Martin rose for the purpose of withdrawing the motion of which he had given notice, for "a select committee to inquire whether the practice of bear baiting, and other cruel sports, has a mischievous effect on the morals of the people." He observed, that it was too late in the present session to have the committee; and he was the less anxious about it, as there was one species of cruel sport—namely, bull baiting—which he had the authority of the Attorney-General himself for saying was illegal under the law as it now stood. The learned Attorney-General would not deny this, for he had in his possession the written opinion of that learned gent. on the subject; and the learned gent. had his two guineas for that opinion in his pocket (loud laughter). It was, then, a fact, that the bull was as much protected from cruelty by the existing law as the bullock, the sheep, or any other animal. What he was anxious to prove, and it could be best done in a select committee, was the demoralizing tendency of the cruel sports which were now practised.

The motion was then withdrawn.

### Game Laws.

LORDS, THURSDAY, FEB. 17.—Lord Suffolk presented a petition from the magistrates of the county of Norfolk, assembled in quarter sessions, praying for the amendment of the game laws. After the petition, which deprecated the injurious effects on morality produced by the operation of the present game laws, had been read, the noble lord observed that the present petition, as well as that of last year, was agreed to by a very numerous bench of magistrates, who, from their experience, were perfectly capable of judging of the effects of the game laws.

COMMONS: (same day).—Mr. S. Wortley moved for leave to bring in a bill to amend the existing game laws, which was precisely the same as that which he had submitted to the house in the last session of Parliament.

Mr. Curwen said, that the evils of the present system were obvious, and such as required al-

teration. The gaols were filled with poachers, game was destroyed to a considerable extent, and was, in many places, openly sold, notwithstanding the penalties which were imposed for the purpose of preventing it. He highly approved of the general principle of the bill.

Mr. Peel was prepared to give the measure his support, but for a different reason from that which had been assigned by the hon. member who spoke last. He thought that law the best which would be the most effectual in repressing poaching. For this reason he supported the measure which made the sale of game legal. He would have preferred that the experiment should be made on this point alone, and his only objection to his hon. friend's plan was, that it was too extensive.

Mr. Tennyson agreed with the rt. hon. Secretary of State. He hoped that there might be a provision introduced into the bill, restraining the use of man traps.

Mr. S. Wortley was of opinion that the setting of spring-guns prevented scenes which would be ten times more fatal than any which could result from them.

Leave was then given to bring in the bill.

**LORDS, THURSDAY, FEB. 24.**—Lord Suffolk rose to propose a bill declaring the setting of spring-guns, or other instruments of death, in grounds, for the preservation of game, unlawful. He particularly called their lordships' attention to the dreadful accidents which had frequently been occasioned by spring-guns. It was not poachers alone who suffered. Many innocent persons had become the victims of those instruments of death, and there was an instance in which royal blood had very nearly been shed by a spring-gun. The consequence of authorizing the use of spring-guns was to give to an individual the power of punishing with death an offence, for committing which, the offender, if brought to trial, would be punished less severely. Capital punishment ought not to be thus left to individuals, even if it could be certain that the punishment was always to fall on offenders; but, as he had said, it was not poachers only who were exposed to the effects of spring-guns. He hoped to prove that in the majority of cases spring guns were illegal; that no law founded in moral justice could sanction them; and that for these reasons they ought to be altogether prohibited. In the case of *Vere v. Cawdor and King*, 11th East, 568., King, Lord Cawdor's game-keeper, shot Vere's dog in pursuit of a hare. Vere sued King, and upon the trial Lord Ellenborough observed, "the question is, whether the plaintiff's dog incurred the penalty of death for running after a hare in another's ground? and if there be any precedent of the sort, which outrages all reason and sense, it is of no authority to govern such cases." Judgment was accordingly given for the plaintiff. If a dog did not incur the penalty of death for running after a hare in another's ground, it would be surprising if a man should incur the penalty of death for no greater offence. In *Townsend v. Wathen*, 9th East, 277., Wathen set traps baited with attractive food. The plaintiff's dog was caught in one of them. He brought his action and obtained a verdict. On this a rule nisi being granted, Lord Ellenborough observed, "every man

must be taken to contemplate the probable consequences of the act he does."—And the rule was discharged. The analogy here could not but strike their lordships; a game-preserver accumulated in his woods an inordinate quantity of game, tempting the trespasser by this sort of attractive food into his traps. The probable consequences were the poor man's mutilation or death, for which, the person who set these engines must, according to Lord Ellenborough, be answerable! In *Jay v. Whitfield*, tried at Warwick Summer Assizes, by Chief Baron Richards, 1819, a boy committing a trespass was wounded by a spring-gun. He brought his action for damages, and recovered 160l. It was held "that no man could retaliate an injury out of all proportion with that which he had received."—Such force was only allowable as might be necessary to repel aggression. A trespasser might be thrust off premises which he had no right to enter and which he refused to quit; but had the owner taken a hedge stake and slain the trespasser, he would have reminded him of a person being shot, who in some village near London chose to personate a ghost. The man who shot the supposed ghost was tried, and the jury, taking into consideration the terror that had been excited, wished to bring in a verdict of manslaughter; but the Judges who presided at the Old Bailey, told the jury—if not convinced of the guilt of the accused they might acquit; but they were bound to acquit or find the accused guilty of murder. In the case of *Dean v. Clayton*, 7. Taunton, 489, a gentleman contrived to fix spikes or spears in his trees, in such a way as to allow of hares passing under them, and at the same time to render the destruction of any dog in pursuit of them probable. A valuable pointer was killed by one of these spears, an action was brought against the person who set them, and the Court of Common Pleas was divided in opinion, whether the action was maintainable. The reasoning of the case in favour of the action was, that a man "cannot indirectly do that which he cannot do directly." By a previous case it was decided that a servant could not directly shoot a dog in defence of his master's hare; the gentleman could not have directly speared the dog, therefore he could not indirectly fix a spear so that the dog might probably be speared. In the case of *Hott v. Wilks*, two men went into a wood, not to steal pheasants, but to gather nuts; and it was proved in evidence, that they conversed together on the spring-guns set in the wood before they entered. Notice was not only given in this case, but it was proved to have been received. Nevertheless, Mr. Justice Garrow, who tried the cause at the assizes in Essex, considering the question the same in principle with that of *Dean v. Clayton*, directed a verdict for the plaintiff; damages to the amount of 50l. were given, but subsequently the case was heard again, a rule nisi having been obtained. Moral, if not legal wrong, having been inflicted, and the judgment was given with reluctance by those who passed it. Chief Justice Abbott said, "We are not called upon in this case to decide the general question whether a trespasser sustaining an injury from a latent engine of mischief placed in a wood or in grounds where he had no reason to apprehend personal danger, may or may not

maintain an action. Nor are we called upon to express any opinion upon the humanity—no, the inhumanity (he says) of the practice—which in this case has been the cause of the injury sustained by the plaintiff. In this case it is found by the jury that the plaintiff actually knew that spring guns were set in this wood. It is impossible to doubt what the moral feeling of the learned judge was in pronouncing judgment in this case. Mr. Justice Bayley said—“Nothing that falls from me shall have a tendency to encourage the practice which has to a certain degree prevailed of setting those engines. I am of opinion on the ground of notice only, that this action is not maintainable.” Mr. Justice Holroyd said,—“The only doubt I have entertained during the course of argument, arises out of the maxim of law that a man cannot indirectly do that which he cannot do directly. I am, however, now satisfied that that principle has no application to the present case, where the plaintiff had express notice that the spring guns were placed on the premises into which he wrongfully entered.”—“If indeed a person who had no notice had gone into the grounds, although he would be a trespasser, the act of firing off the gun by treading accidentally on the wires, would not, in consequence of those wires being latent, be considered his own act; but he would be a mere instrument, producing that which resulted from the prior act of another. If one person makes use of another, who is a mere instrument, to do any act, the thing done is the act, not of him who is merely the instrument, but of the person who uses him as such instrument.” Chief Justice Best:—“The act of the plaintiff could only occasion mere nominal damage to the wood of the defendant; the injury that the plaintiff’s trespass has brought upon himself is extremely severe. In such a case one cannot, without pain, decide against the action;”—“humanity requires that the fullest notice should be given, and the law of England will not sanction what is inconsistent with humanity.” This was the single authority on the side even of legal justice for the practice of setting spring-guns; all turning upon the notice not only having been given but received, and therefore admitting in this particular case of the application of the principle of law insisted upon by the judges: *Volenti non fit injuria*. Supposing this principle to be a legal justification in cases where notice of spring guns could be proved to have been received, it could avail against the maxims of law already quoted in other cases where no such proof could be offered. No one would deliberately shoot a poacher, even if he could do it legally, which as the law now stood he could not do directly, though giving him due notice, he could place a gun with impunity in such a manner as to ensure almost the same effect! It were better, if poaching must be capitally punished, for any one to be allowed directly to shoot a poacher, but not indirectly. None but the poacher would be shot; before the trigger was pulled, the shooter might relent, and chances for life would thus be afforded, which in the case of the spring gun did not exist; the gun once set, the innocent, the guilty, every age, sex, and condition, fell the indiscriminate victims. A friend of his riding between two plantations, in a strong wind, nearly lost his hat; if his hat had been blown off, it probably would have been driven over the low fence near which he rode, into the plantation. This, then, would have been his

option—to have been exposed to a snow storm with a bare head, or to attempt the recovery of his hat in the plantation where spring guns were set, at the risk of his life. The plea of necessity for spring guns as a means of preserving game was urged by some; but was the excessive quantity of game necessary? If not, how could spring guns be necessary for its protection? He concluded by moving that the bill prohibiting the use of spring guns as a means of preserving game be read a second time, which was read accordingly.

MONDAY, MARCH 7.—Lord Suffield moved the order of the day for the committee on the bill to make the setting of spring-guns for the protection of game illegal.

The Duke of Wellington thought the principle on which the bill was brought in, if followed up, would apply to enclosures of all descriptions. If spring-guns were not to be employed for the preservation of game, he could not see why they should be set for the protection of roses and apples. He should object to the bill, unless it were to be extended to all other property as well as game. With regard to accidents by spring-guns, he believed very few occurred. The effect of setting spring-guns had been found to be the preventing of poaching, and not the endangering of human life.

Lord Suffield agreed in principle with the noble duke. He would not make any opposition to such a clause, should the noble duke introduce it. He saw no more reason for protecting cabbages than pheasants; he respected them both equally, but thought they should not be protected by spring-guns.

The Earl of Liverpool concurred in the principle laid down by his noble friend, that in consistency the bill should apply to other property as well as game. He was himself for carrying that principle to its fullest extent. That a man should be allowed to buy a trap to shoot another in a case in which he could not directly shoot him, was extremely preposterous. There was another instance in which the state of the law was absurd at the present moment. If a man went into a garden, and took away a basket of fruit already gathered, he was guilty of felony; but if he took away all the fruit from the trees, he was guilty only of a trespass. Now there were a great number of fruit-gardens in the neighbourhood of London which would be exposed to depredation, if it were not for the terror of spring-guns.

The Earl of Westmorland said, if the principle of the bill were made to apply generally, it should have his fullest support.

Lord Ellenborough said, that if the alteration proposed by the noble duke were carried into effect, nobody in the neighbourhood of London would be able to preserve any fruit. There was a great difference between going into open grounds and climbing over a wall or entering a hot-house.

The Lord Chancellor acknowledged the inconsistency and uncertainty of the law with respect to spring-guns. On every occasion on which any question on this subject had come before the courts, the judges, he believed, had been about equally divided. To those who considered the state of the law on this and some other subjects, that maxim which declared it to be the perfection of human reason appeared absurd. It certainly was not the perfection or human reason which made it only trespass to

take a pear from a tree, and which made the taking the same pear, when separated from the tree, felony. It was his wish that property should be protected, but he should be sorry to be thought the advocate for spring-guns. There had been no occasion for those engines in former times, but now when every plantation was turned into a poultry-yard, protection of this kind was thought necessary. A sportsman was now thought nothing of, unless he could kill his thousand birds a-day. But such a thing had never been heard of in the days of his (the learned lord's) youth. There were no pheasants in those days, or at least very few in that part of the country from which he came: some were kept for show, and some were to be found at the seat of the ancestor of the present Lord Ravensworth. Now that so many plantations had been made, and so well stocked with pheasants, how could their lordships expect that people who had a taste for game—and he never knew an Englishman who had not—would not go and look for it where it was to be found? Poaching was the consequence of game being preserved and protected. He never could defend the practice of setting engines to endanger the life of a fellow-creature for the sake of a partridge or a pheasant.

The Earl of *Lauderdale* said that the country galls were crowded with prisoners, the victims of the game laws. Considering the diffusion of property in this country, the game laws ought to be altered. Parliament had within a short period created eight hundred millions of funded property, and a class of persons enjoying revenues amounting to 32 or 33 millions a-year, and yet these persons were not allowed to kill game.

The Earl of *Caernarvon* agreed fully with the noble lord who had last spoken, that there was no grievance greater than the game laws. He wished to see the sale of game legalized, as he could not conceive that the wealthy man should escape for purchasing game while the poor man should be punished for selling it. He was satisfied that the laws for prohibiting the sale of game did not tend to preserve it. Whether a law passed now or not, it was a state of things which must soon be put an end to. There was nothing more conducive to the morality and benefit of the country than for gentlemen to reside on their property, but he did not think the temptations to do this would be lessened from making the sale of game legal. He wished the laws to be such as could be executed; it was very injurious to have laws which could not be carried into effect.

The Lord Chancellor said there was a great difficulty in making the sale of game legal. The difficulty arose from the difference which the law had established between trespass and theft; between things *fera natura*, and in possession, between taking fruit from a tree, and taking it after it was gathered. It was difficult to make game property on this principle, as it was more *fera natura* than in possession. He remembered a case which occurred in Lancashire, where a man stole a salmon from a river, and was tried. It was held that the salmon was *fera natura*, and the man was acquitted. Before the Judge left the town, a man stole a salmon after it had been taken, not so good a salmon nor so fresh as the other, but it had been in possession, caught and placed in a box, and this man was found guilty and transported for life.

The house having resolved itself into a committee,

Earl Bathurst suggested, it would be better that the Chairman should report progress, and that the further consideration of the measure should be adjourned to some future day.

The Chairman accordingly obtained leave to report progress.

TUESDAY, MARCH 15.—Lord *Suffield*, before moving the order of the day to go into a committee on the bill for prohibiting the use of spring guns for the preservation of game, meant to offer to their lordships a bill to make it larceny to take fruit, and other vegetable productions, with a felonious intention. Should this bill, and the one he had already introduced, receive their lordships' consent, he should then introduce another law, making it unlawful to set spring guns in market gardens, orchards, and other places. He had been under the necessity of adopting this course in consequence of the opposition of the noble duke (the Duke of Wellington). That noble duke had accused him, he thought with more zeal than discretion, of not having carried the principle of the bill far enough. The noble duke did not seem to be aware of the great distinction on which he had founded the measure. Game was only preserved for amusement; but the preservation of fruit was often necessary to the existence of the cultivator. This made a great difference, and induced him to confine his measure to prohibiting the setting spring guns for the preservation of game. The noble duke's zeal, supposing him sincere, had blinded him, and he proposed to extend the prohibition to setting guns in any place. If the noble duke were sincere in his professed wish to see the principle of the bill extended, and he (Lord *Suffield*) cast no imputation on his sincerity, his arguments were very strange. The noble duke doubted if so great a number of accidents occurred as had been asserted, and yet wished the principle of the bill to be extended. Supposing the noble duke insincere, and that his arguments were used with a view of getting rid of the measure altogether, it must be allowed that no course could have been better devised to answer his purpose. The proposal made by him (Lord *S.*) was simple and unobjectionable, and indeed no objection had been made on the second reading of the bill. On his bill it was proposed to engraft a clause which would make the measure very objectionable. If the proceedings of the noble duke were a mere *ruse de guerre*, he thought them hardly fair on a question like this. It might be dangerous to advocate publicly the setting spring guns for the preservation of game; but he was sure the noble duke was the last man, who, if he thought the use of them right, would oppose his bill in an indirect manner. Where there was danger, the noble duke was the man to stand in the breach, and face it. He did not indeed attribute artifice to the noble duke. If he were now to use it, he must have learnt it since his first entrance into that house, and certainly since the convention of Cintra. He hoped, however, whether so intended or not, that the proposition of the noble duke would not defeat his bill. The noble lord concluded by moving the first reading of the bill, for making it larceny to steal fruit and other vegetables.

The Duke of *Wellington* did not rise to defend himself against any insinuations which the

noble lord had thrown out respecting transactions in which he had been engaged—insinuations which were perfectly unparliamentary (hear, hear). He said perfectly unparliamentary, as they had no relation to the subject under the consideration of their lordships, but to his conduct before he was a member of that house. But with regard to the bill in question, he did think it contained a very unfair insinuation of cruelty against country gentlemen, who might wish to preserve their game by spring-guns, rather than by game-keepers, because the latter mode was not so consistent with their fortune as it might be with that of the noble lord opposite. That he intended to oppose the bill when he came down the other day, he would not deny; but when he heard the statement of legal authorities made by the noble lord on moving the second reading, he reconsidered his opinion, and came to the conclusion, that if the principle were right, it ought to be extended further. He wished to deal fairly with the noble lord, and would tell him, that if the bill were made applicable to garden grounds, it would be lost; but that was no affair of his. The fault was theirs who introduced a measure of such a nature, that when it was proposed to extend the principle, it was found to be so unfair that it could not be applied beyond an individual case. Whenever the measure came to be considered in the committee, he should insist upon its being made applicable to all enclosures, on the ground that small country gentlemen should not be deprived of the only means they had of protecting their game.

Lord Suffield thought that the circumstance of country gentlemen not being able to preserve game legally, was no reason for permitting them to preserve it illegally.

The Earl of Liverpool observed, that the first bill to which the noble lord (Suffield) had called the attention of the house was that which proposed to make stealing in gardens larceny, and to the motion for reading that bill a first time he had no objection. The noble lord had also given notice of his intention to bring in another bill to prohibit the setting of spring guns in gardens. He certainly could not see more reason for shooting a man for stealing fruit, than for stealing pheasants, and he was therefore in favour of the prohibition; but he thought that the better way of accomplishing this object would be the ingrafting a clause in the other bill.

Lord Suffield explained, that the bill, as it was at present framed, would enact, that all persons setting spring-guns, or other destructive engines, for the purpose of taking away human life, or doing some bodily harm, in any place not being a nursery or cultivated garden-ground, should, in case of human life being actually lost, be declared guilty of manslaughter; that in case only a blow or wound should be the consequence of such engines being set, the person setting them should be guilty of a misdemeanor, and that the party injured should have, moreover, a right of action for damages. The other bill, by which he intended to make all robberies in such cultivated grounds as he had just alluded to, larcenies, would obviate the objections which had been on a former occasion urged against his measure. He concluded by moving the first reading of the bill.

The Duke of Wellington said, that if the bill

had been introduced originally in its present shape, he should not have objected to it. If it were true that many accidents happened from the employment of spring-guns, it was no less true that property had been, to a considerable extent, protected by them. His object in the opposition which he had offered was, that the whole body of country gentlemen should not be under an imputation which they had not deserved.

Lord Ellenborough had no doubt that the loss of human life would be much greater after the bill should have passed, than it could be under the state of things which existed at present. If their lordships had resolved to legislate against all the accidents by which the lives of men were endangered, there could be no limit to the laborious task. He wished, at least, that some exception should be made in favour of such places as were surrounded by continued fences, and which, therefore, could not be entered under misapprehension, nor indeed with any but a felonious intent. The gardens in the neighbourhood of London principally owed their security to the engines which were set in them; and whatever might be said in favour of the principle of the bill, he had no doubt that its practical consequence would be to lay the whole of those gardens in particular open to the depredations of the thieves with which London abounded.

The Lord Chancellor said, the law, as it now stood, afforded some protection to the owners of gardens and orchards. By an act, as old as the reign of Queen Elizabeth, robbing orchards was made an offence; but owing to the youth of the persons by whom it was most commonly committed, the provisions of that act were rarely carried into effect. An act of the late King had provided against trespasses committed in gardens, by subjecting the offenders in the first instance to the penalty of 40s.; in the second, of 5l.; and in the third, to transportation. Still, however, it seemed desirable that the law upon these points should be made more clear and simple; and to effect this an opportunity would now be afforded, if it should be their lordships' pleasure to go into the committee.

The bill was then read a first time.

Upon the motion of Lord Suffield, the house then resolved itself into a committee on the other bill.

Lord Ellenborough proposed, as an amendment, that all walled and fenced grounds should be exempted from the operation of the bill.

The Earl of Liverpool said, that he should oppose the amendment, upon the broad principle, that spring-guns and other destructive engines were not a fit protection for private property. He would therefore move, as a further amendment, that the provisions of the bill should apply generally, and that it should be declared illegal to set spring-guns in any place whatever.

The house then divided on the last amendment by Lord Liverpool, when the numbers were—

Content, 28—Not Content, 5—Majority in favour of the amendment, 23.

COMMONS, TUESDAY, JUNE 21.—On the motion for the second reading of the Spring Guns' bill,

Mr. Tansley could not refrain from express-

ing his strong disapprobation of the use of these mischievous instruments. The object, which was to protect property of a peculiar kind, was not sufficiently important to justify the means taken to attain it. The law writers declared that homicide was only justifiable in two cases—first, in order to prevent the commission of an atrocious crime punishable with death; and, secondly, in self-defence, when the person attacked could not otherwise escape. Now the purpose for which these destructive instruments were used fell under neither of these divisions. They often caused the deaths of innocent persons, and of those who, so far from having any hostile intention, came with friendly purposes to the place where these guns were concealed. A notice did not legalize the use of them. A man's land was not his garrison, that he might plant it round with guns.

Mr. S. Wortley denied that spring-guns were used by the rich alone. They were frequently and had been for many years employed by persons of very small property to protect their grounds from depredation. He contended that it was perfectly legal for a person to set spring-guns. If it were unlawful to do so, he knew not what was lawful. Every judge on the bench had over and over again declared, that it was legal for an individual, with due notice, to place such instruments on his grounds. The bill, therefore, in declaring the setting of spring-guns to be unlawful, proceeded on a false principle, and on that account he would vote against it. He thought it necessary to say so much of a measure which had come from the other house, when he recollected the manner in which some bills which had proceeded from the House of Commons had been commented on in that assembly (hear). It had been said that property might be protected by employing a great number of individuals for that purpose; but the consequence of such a proceeding was perpetual affrays between the invaders of property and its protectors. It had come to his knowledge that a party of poachers, having determined to go on an expedition at night, proceeded to canvass which was the most convenient place for the scene of their operations. A wood belonging to him was mentioned. The answer was, "No, there are spring-guns there!" It was then determined upon to visit the grounds of a gentleman who employed men to guard his property. The consequence was, a fight between the two parties, in which a poacher and a game-keeper were severely wounded.

Sir F. Burdett said, that it was almost impossible to produce an instance of spring-guns having taken effect upon the parties against whom they were directed; but instances were perpetually occurring of a kind of assassination (it deserved no better term) being committed on innocent persons (hear). He apprehended that it was not so clear a point as the hon. member (Mr. S. Wortley) supposed that persons had a right to set spring-guns. Previously to the last decision, the judges were divided upon that point. So tender was the English law of human life, that it would not permit it to be destroyed if a person could by any possible means defend his property without destroying it. It was totally inconsistent, then, with the humane principle of the law, blindly as it were to destroy individuals innocent or guilty, but who, if guilty, would not incur a penalty

equal to that which was inflicted upon them by the setter of spring-guns. The greatest evil attendant on spring-guns was, their being applied to the protection of game. He could not coincide with those who thought so discredibly of English gentlemen as to believe that the preservation of game was indispensable to their residence in the country, and their performance of the various duties of their situation. To call such an argument in aid of the use of spring-guns was a proof of the weakness of the cause. The game laws generally were among the greatest evils with which the country was afflicted; and it was incumbent on the house to do what they could to put an end to a system which maintained a kind of civil war, and which prevented that good feeling which would otherwise subsist between the rich and the poor (hear). To give any effectual notice of setting these engines was absolutely impossible; and he did not believe that the practice of poaching had been at all checked by their adoption.

Lord Binning was in favour of the principle of the bill, as it applied to the question of game, but found some clauses in it regarding other subjects, to which he could not assent; for instance, the clause which forbade the setting of a spring-gun for any purpose whatever, even although it were not within a man's walled garden.

Mr. Scarlett thought the setting within a walled garden decidedly less objectionable than setting in a plantation; at the same time that setting would still be in opposition to the principle that a man should not do indirectly that which the law would not permit him to do directly. As regarded the question of game, it was too gross to talk of protecting by such means that which the law of the land did not go so far as to recognize even as property.

The house divided—For the bill, 39—Against it, 27—Majority, 12.

WEDNESDAY, JUNE 29.—On the third reading of the Spring Guns' bill,

Lord Binning proposed to exempt gardens from the operation of the bill; this clause being agreed to.

Mr. Tennyson, though introducer of the bill, was determined to oppose it in its present form, because he wished to preserve the house in general, and himself in particular, from the odium of allowing the introduction of these destructive and diabolical engines, under any pretence whatever.

On the question that the bill do pass, the numbers were, — For the bill, 31 — Against it, 32—Majority against the bill, 1.

COMMONS, MONDAY, MARCH 7.—Mr. Stuart Wortley rose to move the second reading of the Game Laws' Amendment bill. In legislating upon this subject, it was proper to consider whether Parliament could not give protection to the amusements of country gentlemen without doing injustice to the country at large. The evils which resulted from the present system were many; but the most important was the great increase of poaching, and the consequent filling up of our jails with persons committed for an offence not considered a crime in a moral point of view. Severe laws, he was convinced, would not diminish the evil; it was necessary to generate a

different feeling amongst the body of the people. That, then, should be his first object; and the next the opening of the market for the sale of game, and thereby destroying the monopoly which the poachers at present enjoyed. The existing system of qualification to kill game was most absurd. To be qualified to kill game, a man must have an estate or inheritance in his own or his wife's right of the yearly value of 100*l.* or a leasehold estate of the annual value of 15*l.* Those were the two principal qualifications; but there was another, derived from the accident of birth: gentlemen not possessing the power to kill game themselves, might confer that power to their children. Thus Doctors of Law, Barristers, Captains in the army and navy, whose eldest sons were allowed to shoot, had the great advantage of begetting shooters, while they could not shoot themselves; and what was still more ridiculous, at the father's decease there was an end of the son's qualification. He proposed to remove all qualifications, the only effect of which was to engender ill blood; and to give to every person who held land a property in the game which was on it, and a power to prevent any person from destroying it. There would be no more difficulty in making game property than fish in a river which ran through several estates. He did not propose to make the taking of game a felony; but there were many articles well protected by the laws which it was not a felony to steal. He did not believe that the change in the law which he projected would increase the number of sportsmen. If the bill should pass, it would be necessary for an individual, after taking out a license, to have the means of shooting. Under the existing system many persons went out to kill game who had no right to do so, and took the chance of being found out. The great objection which was urged against the bill last year was, that it would have the effect of destroying fox-hunting—that was to say, that farmers and other small land-holders, having property in the game on their land, would find it to their interest to kill the foxes. But when it was recollected that foxes were generally to be found only in great woods and preserves, where they might be protected by those who thought it worth their while to preserve them, he did not think that that objection was entitled to much weight. He should, indeed, be very sorry to do any thing to the prejudice of fox-hunting, which he considered a most manly and truly English sport. Another objection to the bill was, that it would render game so common in the market, that country gentlemen would soon give up all idea of sporting. He did not believe that: for his own part, he could say, that he did not feel less pleasure in shooting woodcock or wild fowl, or catching a fish, because he could buy such animals in the next town (hear).

Sir J. Brydges said that the present bill, instead of checking poaching would go to encourage it. All that the poacher wanted was a free vent for his plunder, which this measure went to afford him; for, like the smuggler, he could afford to sell his commodity cheaper than those who brought it lawfully to market. He was decidedly opposed to the bill, as regarded its effect upon the preservation of game; and not the less so because it added a new felony to the statute-book, in making night poaching (the third time) a transportable offence. Under these circumstances, he should move "that the bill be read a second time this day six months."

Mr. Lockhart thought, that the measure must promote the destruction of game. He could not truckle to any doctrine, that the destruction of a thing was desirable to diminish the crime of stealing it; for if such a proposition were admitted with respect to game, it must be equally applicable to every other species of property, and would propagate a system of the most dangerous depredation. He opposed the bill, not because he objected to the legalizing of the sale of game, but because the means by which the hon. member proposed to carry his measure into effect were calculated to produce greater evils and inconveniences than those which already existed under the present system of the Game Laws.

Mr. Peel had come down with a determination to vote for the bill before the house. When he looked to the antiquity of the Game Laws, and considered the great changes which had taken place with reference to that species of property, he could not but entertain a strong suspicion that those laws required alteration. He conceived that there was no one circumstance which tended to call for that alteration so strongly as the conduct of the game preservers themselves (hear, hear). The whole system of game, and of the sports connected with it, had changed, it should be recollected, within the last 30 or 40 years. Gentlemen were not contented to follow their birds now, as their fathers had done before them; every little cover almost throughout the country was a nursery for pheasants, and took rank as a preserve. The list of the killed and wounded after a week's sport became perfectly extraordinary; he had himself seen in one larder no fewer than a thousand pheasants, the product of three day's shooting; and yet, for all this immense mass of commodities, there was no legal sale (hear, hear). Now the increase in the quantity of game found in the country had produced a change, and a new feature in the public taste. Almost every body of a certain rank in life now partook of game, and, in fact, it was considered a very unfashionable thing not to have a certain quantity of game at one's table. It was true, that there was no legal vent for this enormous accumulation of game; but game nevertheless found its way among every class of society in the kingdom which had any pretensions to elegance or conviviality (hear, hear). It had been humourously said, but very justly, "You cannot hinder the three per cent. consols from eating pheasants" (hear, and laughter)—even if it were desirable to hinder them from doing so, which did not distinctly appear. Without going at all, therefore, into the question of detail, he thought there was enough in the bill of his hon. friend (Mr. Stuart Wortley) to warrant its being read a second time: without entering into the question of making game property, it was surely expedient for the present, to give every proprietor of land the power of killing, and selling it on his own estate; and it was not reasonable that a man who chose to preserve game should send it to feed on the crops of the neighbouring farmer, who had no right to kill it (hear, hear). A fair compromise would suit all parties best; and that was the end to which it would quickly come. The small proprietor would not find it worth his while to preserve game, and he would sell his right to his richer neighbour for a reasonable consideration (hear). Let the house look at the way in which game was preserved under the existing system: it

must be preserved either by spring-guns, or by an armed force (hear, hear). He himself preserved his game in what was considered the mildest manner—he kept five or six keepers, with twenty or thirty attendants, who were subject to be called out in case of any attack on the keepers, and, if necessary, to repel force by force. This was surely a most unsatisfactory mode of preserving any species of property, and it necessarily introduced a great deal of ill blood between the game preserver and the inhabitants of the district in which he resided (hear, hear). Then for the spring-guns, besides the constant liability to accident from the use of such engines, their effect was to take away life unjustifiably (hear, hear). With respect to the suggestion of altering the scheme of qualification, to let the matter rest where it stood, was in times like the present, quite impossible. According to the present law, a gentleman might have an estate of several thousands a year, and yet not be able to qualify his second son to shoot game. He might be a magistrate; and in his official capacity, might be called upon to put the law in force against his son (hear, hear). A system very like that suggested by the present bill was pursued in Scotland; and in Scotland, for many years past, the game had considerably increased. In Scotland every man who possessed a ploughgate of land could qualify whom he pleased to kill game upon that property. At the same time he was bound to admit, he did not think the bill before the house would fulfil the expectations of either party. Those who were afraid of it would find they had been mistaken; and those who supported it would perhaps be disappointed: for the truth was, looking at the quantity of game in this country, he did not think that any measure would entirely repress poaching (hear, hear). The poacher acted upon two motives—the love of sport and the love of money. The love of sport would operate under any system of law; the man who liked to shoot pheasants for amusement, would shoot them. But the second motive—the love of gain—the bill before the house would go to weaken considerably. The poacher now supplied all the markets with game; he had no one to compete with him, and his trade was a lucrative one; but the case would be much altered when the gentleman who had a thousand pheasants to dispose of, and not even friends to give them to, came to undersell him (hear). The poacher now furnished the whole supply; if the bill before the house were carried, he would only furnish part of it. And he would furnish but a small part; for all other articles sold openly were purchased from those who came fairly by them: and what was there about game to place it in a different situation? It was said by some, that gentlemen would not like to sell game. That he did not comprehend. Gentlemen sold their rabbits already, without remorse; and why the person who sold a couple of rabbits should not sell a hare, he could not tell (hear, hear). Another statement was, that the desire to pursue game would cease when it could be openly purchased; but to this there seemed, as had already been suggested, to be a complete and immediate answer. Partridges and pheasants could not now be bought in the markets, woodcocks might; but no one thought of shooting a pheasant or a partridge where there was a

chance of a woodcock being found. His opinion was, decidedly, that the present bill would work perfectly well before it had been three years in operation; but at all events it was absolutely necessary that the game-laws should be revised, and settled upon some reasonable principle (hear, hear). The best thing that could be done was to throw the same sanction round game that belonged to other property. In case the bill before the house should be thrown out, he would introduce a measure to legalize the sale of game. To allow a man to sell that which he had already power to give, could do nobody any mischief (cheering).

Mr. John Douglas opposed the bill, as tending to destroy all the game in the country. If people were allowed to purchase game openly, they would eat so much of it, that there would soon be none left. Eating game would become a custom; and people would look for their pheasant on the 1st of October, as regularly as they did already for their goose on Michaelmas-day. The hon. member supported his argument against the bill, by observing, that if foxes and game were destroyed, country gentlemen would look to other sports, and would, very probably, dissipate their time and their money in those graves of property which were kept up in St. James's Street.

Sir J. Yorke said, it must be evident that the present restrictive laws on the sale of game did not prevent its being supplied in the largest quantities in the metropolis. It was proved in the committee up stairs, that two poulterers said they could furnish the whole House of Commons, twice a-week, with two head of game for each member; and one of them added, that on one occasion he threw 1000 head of partridges into the Thames, not being able to obtain a sale for them.

Mr. W. Peel opposed the bill, on the ground that much evil would arise from legalizing the sale of game. The proposed alteration of the game-laws would, in his opinion, interfere with the recreations of the country gentlemen.

Sir J. Sturges supported the bill. The law, as it now stood, was extremely objectionable, as it operated to prevent men from doing what they pleased with their own property. Some gentlemen seemed to have great prejudices against any innovation in the game-laws, because they looked upon the present state of things as perfectly natural. A friend of his, when informed that game was publicly sold in several large tracts of country on the European continent, which he called "abroad," expressed great surprise at the information, observing very gravely, that it was quite "unnatural." Prejudices of this kind were not uncommon in the house. They had heard, a short time ago, some gentlemen opposing the repeal of the usury laws, because they considered that 5 per cent. was the "natural" interest of money; and they had also heard of some hon. members opposing the bill for Catholic Emancipation, because, forsooth, Protestants were "naturally" opposed to the claims of the Catholics. These were the prejudices of habit, and ought to be got rid of. He would support the bill, because it tended to put an end to the present system of poaching.

The house then divided, when there appeared—For the second reading, 82—For the amendment, 26—Majority, 56.



THURSDAY, MARCH 24.—On the motion of Mr. Stuart Wortley, the house went into a committee on the Game Laws bill.

On the clause that game be made the property of the owner of the land,

Mr. Leicester objected to the principle of this clause, as being too ambiguous and as attempting too much; he thought that they would do quite enough if they rendered it saleable.

Mr. Stuart Wortley said that he could not agree to this amendment, as it would entirely destroy the object of his bill.

The clause was carried.

Mr. Leicester wished to know who was to be considered as the "beneficial proprietor" in cases of lease under tenant for life or in tail.

Mr. Stuart Wortley said, that the property must, like the produce of the land, be held to be not in the mere occupier, but in the owner of the land.

Mr. J. Martin objected to the injustice of taking the property of the game out of the lessee, and vesting it in the lessor. He thought that the occupier had the best title, and moved an amendment accordingly.

Mr. Stuart Wortley said, that he must persist in assigning the interest of the "beneficial occupier," as it respected the property of the game, to the owner of the land—the only party whom the house could acknowledge in this case. As he was entitled primarily to the produce of the soil, so the property of the game must vest in him.—The committee then divided—

For the clause, 33—For the amendment, 4—Majority, 29.

The house then resumed.

MONDAY, MARCH 28.—Mr. S. Wortley having moved the commitment of his bill for amending the Game Laws,

Mr. Tennyson moved that a clause be inserted, repealing the 21st Edw. I. s. 2, by which it was enacted, that "if any forester or parker shall find any trespassers wandering within his liberty, intending to do damage therein, and that will not yield themselves after hue and cry made to stand unto the peace, but do continue their malice, and disobeying the king's peace do flee, or defend themselves with force and arms, although such forester, parker, or their assistants, do kill such offenders, they shall not be troubled upon the same;" and repealing also the 4th and 5th of William and Mary, c. 23, s. 4, by which the same indemnity is extended to gamekeepers resisting offenders in the night-time.

The clause was agreed to, and the house resumed.

FRIDAY, APRIL 29.—Mr. S. Wortley moved the third reading of the Game Laws Amendment bill.

Sir J. Shelley thought that this subject had not been very fairly treated, on former occasions, either by his hon. friend who had introduced the bill, or the rt. hon. Secretary (Peel). The argument which was urged in support of this bill seemed to be two-fold: first, that the existing game laws filled our gaols with criminals; and secondly, that the passing of the bill would do away entirely, or very nearly, with the crimes for which persons offending against such existing laws were now so frequently committed. In 1818, 1819, and 1820, there were, it was true, more commit-

ments than in any year before, but this was owing to the depressed state of agriculture. Since that period crimes had not increased, and certainly there was no increase of the offence of poaching. In 1200 commitments in one of the returns, only 581 were commitments under the game laws. There was not a sufficient space in England to breed game for an open market, and the climate was against such a system. He could call this bill nothing but a popular democratic bill, although some of its clauses were ultra-aristocratic, particularly the second clause, that gave the right of free warren and free chase to landlords, and by which a man might be punished for destroying game, or a rabbit upon grounds in his own occupation. He moved that the bill should be read that day six months.

Mr. H. Sumner opposed the bill. By its provisions they would only change the denomination of the crime. They would, if the measure succeeded, have the gaols filled with as many thieves as they were previously with poachers.

Mr. R. Colborne observed, that as the law at present stood, it favoured an interchange of civilities between the landlord and his tenant. If the latter preserved the game, the former was in the constant habit of presenting him with it in return. But, should this bill pass, there would be an end to those civilities. If the measure now introduced would do away with poaching, then he would say, agree to it, but as he conceived it would have no such effect, he would oppose it.

Sir H. Vivian called on the house to look particularly at the effect which this bill was likely to have on country gentlemen, who frequently visited their estates for the purpose of sporting. It would encourage poaching, and put an end to fox-hunting, a sport of which he was fond, and the enjoyment of which drew many gentlemen to the country. Fox-hunting was not so useless an amusement as some persons imagined. In proof of this, he instanced the opinion of the Duke of Wellington (who, he observed, had added much to our military glory), that for service that required exertion and dispatch, he always preferred those officers who had been accustomed to cross a country (hear, hear, and a laugh). He (Sir H. Vivian) fully concurred in this opinion, and had invariably acted upon it.

Mr. Stuart Wortley, in reply, observed, that his great object was to introduce a law which would protect game, without occasioning all the evils which manifestly attended the present system. Whether under this measure there would be a little more, or a little less game, was, he conceived, a matter of minor importance (hear). The law, as it now stood, occasioned most men to look upon a poacher as one who ought not to be condemned, but pitied; and he knew no way of removing that feeling, except by altering the legal denomination of game, and making it property. It had been said that stolen game might be sold to the salesman. That was true; but it was equally true with respect to poultry. With respect to the interference of this measure with fox-hunting (which, after all, appeared to be the great objection against it, in the minds of several hon. members), he never could treat the argument seriously. He was a fox-hunter himself, and he respected fox-hunters, and therefore would do nothing to destroy that sport. But he must say, that it did not depend on the preservation

of game, but on the fitness of the country for it, and on the estimation in which a gentleman was held.

The house then divided. The numbers were, For the third reading, 94—Against it, 69—Majority, 25.

**LORDS, MONDAY, MAY 9.**—Lord Dacre, in moving the second reading of the Game Laws' Amendment bill, said, that the evil consequences of the present law were fully evinced in its effects upon the habits and morals of the agricultural population; indeed, it was impossible that any question could come before the house, which more deeply involved the happiness of that class of people. Game was originally the property of the proprietor of the land; and if in subsequent ages the legislature took it from him, it now behoved their lordships to restore it to its former owner. The noble lord then observed upon the various legislative enactments by which the law on this subject had been altered. These enactments excluded all small proprietors and owners of personal property from the enjoyment of game. This exclusion worked a double injustice towards the small proprietor, for whilst it shut him out from the enjoyment of game, it authorized the large proprietor, who was his neighbour, to accumulate such a number of hares and other animals as to threaten his crops with destruction. If the present bill passed, it would be followed by such mutual arrangements between the large and small proprietors, as would have the effect of completely checking the depredations of poachers, which the present system was calculated to encourage. Where there were forty millions of personal property in the kingdom, how could their lordships say that not one of the owners of this was to be allowed to possess property in a single hare? A large majority of the trials with which the sessions were now occupied for several days, instead of a few hours as formerly, were for crimes resulting from the game laws. It was notorious that the general average of those in prison under the game laws, amounted to from 1100 to 1500 persons in the year. This was a great evil, to have the most enterprising and most active part of the population committed to prison for an act not in itself a moral offence—not coming under the class of *mala per se*, but *mala prohibita*; and it would appear the more serious, when they reflected that there was hardly an instance of a notorious poacher, who, after undergoing imprisonment, did not proceed to the commission of crimes. The offence of poaching itself was, in fact, increased by the existing law, and it was to its prevalence that he attributed much of the general increase of crime throughout the country, which was so universally admitted and deplored. The only remedy for the evil would be the enactment making game the property of the owner of the land, and allowing the sale of game subject to certain regulations. Something must be done to remove the evils of the system, and he considered the present measure, with some slight amendments which might be made in it, the best that could be adopted for that purpose.

The Earl of Westmoreland opposed a measure which affected the rights and habits of every one of the King's subjects. The noble lord opposite kept back from the house what this bill really was. He spoke of it as one of popular rights and fairness; but it was really a most

tyrannical and despotic measure (a laugh), and borrowed itself only from the horrors of the French Revolution (renewed laughter); ay, noble lords might laugh, but he repeated, that it borrowed itself from the horrors of the French Revolution. This measure would deprive every man in the kingdom of amusement, except a favoured few. What was the use of giving game to a small proprietor, who could not pursue it? He might, indeed, stand on a hedge and shoot, or he might set snares. But supposing that the owner of the land might pursue game, it should be proved that it was the same game, otherwise a man might be taken by the collar, and given into custody. Another objection which he had to it was, that the taking of game against this act, was not only held to be a trespass, but a robbery; so that the whole of the sportsmen of the country might thus be indicted as robbers. He would admit, with the noble lord, that the evils of poaching were great and general, and he would most willingly concur with him in any measure for its suppression; but the present bill was not calculated to diminish the evil. It was intended to make game (which was heretofore considered *feræ naturæ*) property; but this, he contended, would be a greater evil than that already in existence, and would render any cure much more difficult than before. Another objection to the bill was, that it would put an end to one good effect of the game laws as they now existed—their tendency to preserve the peace of the country (hear, hear). He would repeat it—they had that effect, by preventing arms from being in the hands of the great body of the people; but this bill would allow the possession of arms to almost every class of the community. For these reasons he would move, as an amendment, that it be read a second time that day six months.

The Earl of Malmesbury was unwilling to alter the principle of the game laws, because they afforded a great inducement to the residence of country gentlemen on their estates.

The Earl of Darley supported the bill. As to the observation that the present laws were calculated to act as an inducement to country gentlemen to reside on their estates, they would have the same inducement under the proposed law; for the fact of game being made property could not hinder gentlemen from preserving it less than they did before.

Lord Callhorne believed that the most fruitful source of the evils flowing from the existing laws was to be found in the prohibition of the sale of game. On these grounds he would support the bill. He hoped it would not be considered that they were sitting there as landowners, but that they had other and important duties to perform.

Lord Suffield considered that the present game laws were a prolific source of crime, and therefore this bill had his warmest support. It would remove all doubts as to the old law respecting the right of property to game, which always was, and still remained, vested in the owner of the soil, though heretofore shackled with impolitic and degrading regulations, which had only the effect of filling the gaols with criminals, the result of a traffic in which multitudes had illegally engaged. There still would be every incentive for the fair amusement of gentlemen, without the attendant horrors of the old system of law. This alteration was due to the present state of society, and to the nature

of property which had grown up in the country. The possessor of land ought surely to be allowed both to kill game on his land, and to allow others to do so under certain regulations, and he denied that the tenant would be less disposed to preserve the game by proper means than the landlord.

The house divided upon the amendment—Content, 38—Not content, 23—Majority, 15. The bill was accordingly rejected.

## CHURCH ESTABLISHMENT.

### *Unitarians' Marriage Bill.*

COMMONS, FRIDAY, MARCH 25.—On the motion for the second reading of the Unitarians' Marriage bill,

Mr. W. Smith stated, that the parties, on whose behalf he should submit that motion, were the Unitarian Dissenters of this country, who entertained no objection to the prevailing form of marriage in the Established Church, other than that which regarded the introduction of language that expressed certain sentiments to which they could not conscientiously agree.—All that they asked was, to be relieved from the necessity of repeating a certain form of language which invoked the name of the Trinity. It had been the anxious desire of himself, and of those who were connected with him, so to frame this bill as to avoid injuring the feelings of any other class of his Majesty's subjects. The bill was almost in all respects the same which, being introduced by him about three years ago into that house, had received no respectable a sanction.

Mr. Robertson thought that the Church of England was essential to the safety of the throne of England. Pull down the one, and the other could not stand. The safety of such establishments ought not to be endangered merely to satisfy the scruples of a small minority of dissentients. If Parliament gave this sort of relief to one set of men, they must to another: and similar dispensations must be conceded to every class of Dissenters in the kingdom. The hon. gent. then entered into a short historical review of the mischievous effects that had at different times ensued to states, from connexions with Presbyterians, Puritans, and Unitarians. To the Unitarians, however, he must deny the title they had so absurdly assumed of Christians—dissenting Christians. They might be much more properly denominated Mahometans, whom they much more nearly resembled (laughter). He begged the house to remember the conduct of the Puritans in the time of Charles I. Their authority commenced with small beginnings; but in a short time they became a most formidable body. Buckingham thought it necessary to court their power; but they soon became the masters of Buckingham, and the arbiters of the fate of their sovereign. They got the reins of government into their own hands, and what the consequences were every person conversant with the history of the country must know perfectly well. Therefore, Parliament ought to watch narrowly what they granted to the parties who were now before them, lest they should be induced to take too much upon themselves. He admitted that those principles of Puritanism did not now appear in so strong and decided a point of view, as they had done at the period to which he had alluded. But they ought never to lose sight

of the fact, that it was puritanism which induced the Scotch to sell their King, and the English afterwards to butcher him (hear). He should oppose the bill from a firm conviction that great mischief would arise, if the concession called for were granted.

Dr. Lushington said, that the relief which the Dissenters sought for in the present instance, was not attempted to be violently wrested from the church of England, but was called for as a concession which should, in justice, be received at her hands. What said the Unitarian Dissenters? They declared, that they could not agree with the marriage ceremony, as solemnized in the Church of England, because it was at variance with their religious sentiments.—Some of the most respected Prelates of the established church, the Bishops of London, Llandaff, and Exeter, had said, "We will not take on ourselves to judge whether your scruples are well or ill-founded—we will not go into the examination of the marriage service—we will not go into the grounds on which your opinion is founded. It would be useless for us to proceed with such an examination, because we know, that in all matters of religious belief, the conscience of the individual must alone be looked to." He would take the liberty of reading the opinions of the Archbishops, and several of the Bishops of Ireland, in 1782, when a bill was brought into the Irish Parliament, for the purpose of allowing Dissenters to be married by ministers of their own persuasion. They opposed that bill, with reference to some of its points; but with respect to its principle they entirely concurred. "We are," they said, "willing to pass a bill rendering all marriage contracts or marriages hereafter to be entered into between Protestant Dissenters, and solemnized by Protestant Dissenting ministers, or persons approved of by the congregation, as good and valid to all intents and purposes, as marriages would be if performed by ministers of the established church;" and then they stated the grounds of objection which they had to some of the clauses in this particular bill.—Now, it should be observed, that this qualified protest was drawn up by individuals who held the highest situations in the established church. They felt that the right of marriage was intimately connected with the principle of toleration itself. This was a right very different from that of sitting in Parliament, very different from various civil rights, to the attainment of which certain forms were necessary by law. The right of marriage was a natural right. Then came the question, whether the plan now proposed was not the best mode of admitting that right, without infringing on the rights of the established church? As the business at present stood, there were but two ways in which the marriage of Dissenters could be performed without wounding their religious scruples. The one was, to alter the liturgy of the Church of England; the other to suffer the Dissenters to be married by their own pastors. The first course would, he was sure, be at variance with the feelings of the clergy of the established church; and certainly in his opinion, their feelings ought to be attended to. If a measure appeared to militate against their feelings, or to be opposed to their rights, it would be inconsistent with good policy, or with justice, to press it forward. But even if the liturgy were altered, new sects of Dissenters might arise, new regulations might be called

for, and it would be beyond the power of human wisdom to propose any form of marriage to meet all the diversities of religious opinion.—Some bodies of Dissenters were adverse to the solemnization of the marriage ceremony by any clergyman at all; and therefore it was clear that no alteration in the liturgy would produce an unanimity of feeling. Long after the establishment of Christianity, marriage was not considered a religious rite. It became so under the Pontificate of Pope Innocent III.; but even in places on the Continent where marriage was held to be a sacrament, it was not deemed necessary that marriage should be celebrated in a church at all. Nor was it the case here, until the passing of Lord Hardwicke's act, which was passed for the protection of property. He was of opinion that, by taking the course pointed out by this bill, the Dissenters on the one hand, would not be compelled to violate their religious scruples; and, on the other, the interests of the church would not be invaded. By allowing marriages to be solemnized in the way proposed, all bickering and animosity would be put an end to. But he would ask, could it strengthen the interests of piety—could it render religious feelings more ardent—could it add to the interests of morality—to bring individuals before a church for the purpose of performing an important duty, when they did not believe in certain tenets held by that church? Why should any human being be called on to state, with his mouth, his belief of that which he abhorred in his heart? Why should any human being be obliged, before the altar of God, to hold language against which he felt himself bound to protest almost at the very moment he was uttering it? He thought nothing could be conceived more disgraceful than those scenes which had already taken place at the marriages of Unitarians, when protests were tendered to the officiating clergyman. Nothing, in his mind, could be more injurious to the church than the performance of the marriage ceremony, coupled with a protest against the forms to which the parties were obliged to submit. Could any thing be more repugnant to feeling than to mark one of those scenes, where the clergyman was told to his face, "We are compelled to come here. Unless we are guilty of a breach of our conscientious feelings, we cannot enter into this contract as you would wish us. We therefore protest against this proceeding." But though they had made severe laws on the subject of marriage, yet a strange anomaly was suffered to exist. In this country a couple had only to cross the Tweed, and throw themselves on the mercy of a blacksmith, and, the ceremony being performed, the husband might come back and claim all the rights, privileges, benefits, and advantages which would result from the solemn marriage in this country. This shewed that it was the principle of the law of England and of the Constitution, not to compel parties to submit to ceremonies which were revolting to their own peculiar religious principles and feelings. He did not mean to uphold all the details of this bill; it contained two points that ought to be most guardedly examined. One of these was, that it should not be made subsidiary to the performance of clandestine marriages; and next, that the provisions of the bill should not interfere with the privileges and interests of the established clergy. He would, as the bill intended, suffer Dissenters to be married by li-

cense; but he would recommend the adoption of proper measures to prevent the celebration of clandestine marriages. The subject of registration was one of the greatest importance. He had heard it said, that the established clergy of England objected to the mode in which it was proposed that those marriages should be registered. If this were the case he would alter that part of the bill, and give the clergy no real cause of offence. He wished that the subject of the marriage law in general, should receive the most serious consideration, because the period was fast arriving, when, if they did not new model it in some respects, the most lamentable inconvenience would be experienced. He turned his attention, it would at once be perceived, to the marriage law in Ireland, which loudly called for revision; and though the suggestions which he had at different times thrown out on this subject, might be repulsive to the feelings of many whose opinions he wished most sincerely to consult and to conciliate, still he felt that ultimately the subject must be considered, and he believed those suggestions must be acted on. Such was the state of the marriage law in that country, that it appeared to him necessary, that some civil form should be adopted, by which marriage might be contracted; and after that form had been gone through, such religious rites or ceremonies might be introduced as were consistent with the faith of the parties contracted, and as would render the contract more binding. His reason for adopting this process was, because it was beyond the ingenuity of man to find out the religious belief, or the shades of religious belief, by which different individuals were influenced.

Mr. Peel said, that as the present bill was a measure the object of which was to give relief to tender consciences, he thought every opportunity should be afforded for removing any difficulties connected with it. He therefore would agree to its going into a committee, where the hon. gent. who brought it forward would have full scope for meeting those objections which might be urged against it. He admitted with the learned gent. that the right of marriage stood on very different grounds from the right of holding civil offices, or of obtaining civil privileges. He was sorry that the scruples, to meet which this bill was brought in, existed at present. For 40 or 50 years the Dissenters had not objected to that mode of solemnizing marriage against which they now protested, and he was concerned that they were not still prepared to accede to the system which had so long continued. Last session, they were told that a scruple existed in the minds of the Unitarians on this subject; but who could tell what was the extent of that scruple, except the individual who felt it? Could any one tell how far scruples might extend—how far doubts might proceed—with reference to other sects? How, then, were they to legislate so as to give satisfaction to all? The learned gent. wished the house to go at present as far as this bill went; but he had observed, that if this bill were carried, it would be followed by various others, to embrace every species of scruple which might be felt by the Dissenters. Now it would be more satisfactory to him (Mr. Peel) if he knew clearly the extent to which it was intended this measure should be urged? In point of fact, the learned gent. ought not to vote for this bill at all; because, on his own showing, it would not give relief to the Unitarians. The

learned gent. had said, that many of them objected to going before a clergyman at all. Then he (Mr. Peel) must contend, that at least to these Unitarians the bill afforded no relief whatever. And why? Because the bill viewed marriage as a religious ceremony, and pointed out the manner of its religious celebration. If every man in society were allowed to select the individual by whom he should be married, the marriage vow, he was quite sure, would not be observed with that sanctity with which it was observed at present. The Quakers and Jews were exempted from the operation of the marriage act: they were allowed to marry according to their own rites. The present bill, however, did not place the Unitarians on a level with the Jews and Quakers. No: according to this measure, the Unitarian marriages are to be registered in the Church of England. Now the Jews and Quakers had nothing to do with the Church of England: their marriages were solemnized according to their own forms, and registered in their own peculiar way. It was proposed to suffer these Unitarian marriages to be performed under license. But here a considerable difficulty arose. If he could give relief to sincere Unitarians, without incurring considerable danger, he would readily do so. If he could easily recognize such Unitarians, his difficulty would be at an end: but pretended religious scruples might be professed, for the purpose of evading the law of the land; and the chance of such occurrences ought to be carefully guarded against. The Jew and the Quaker could be easily discerned by their garb and their manners. The moment they were seen they were known. They could not practice deceit with any hope of success. But if a stolen match were intended between a Protestant and an Unitarian, for the purpose of securing a property, it would be difficult, from the garb or manner of either, to discover that any clandestine proceeding was contemplated. It was also provided by this bill, that banns should be proclaimed in the Unitarian chapel and the Protestant church. But a Protestant parent was not likely to attend a Unitarian chapel, neither was it probable that a Unitarian parent would attend a Protestant church. How, then, could any system of collusion be discovered? If they passed this bill, they certainly would not have the same check on improper marriages as they had at present. With respect to the question of registration, it was proper to observe the mode in which the Jews and Quakers proceeded. They proved their marriage in the ordinary way; and if that marriage appeared to be valid, according to their respective institutions, no farther proceeding was necessary. But with respect to the marriage of Unitarians, a registration was required by this bill. Now, certainly, the clergy of the church of England might feel sincere and conscientious scruples as to this registration. By this bill Unitarians might be married in their own chapels, but it was a positive injunction on the clergy of the church of England to register these marriages in the church of England books. According to the doctrine of the church of England, marriage was not merely a civil, but a religious ceremony; it was denominated "holy matrimony;" and, by the present bill, the clergyman was called upon to enter in that book, which was appropriated to the insertion of entries relative to what the church of England viewed as a

religious ceremony, the marriages of parties who denied the divinity of our Saviour! But that entry was not to be originally made there. The original entry was placed in the Unitarian chapel. So that, if the party married wanted a copy of the entry from the church books, for any legal purpose—what did he receive? He received the copy of a copy. He did not get the best evidence that could be procured. Why not say, at once, that by law the church of England should have nothing to do with this registration (hear, hear)? Why not declare that the record of marriage should be furnished in a regular manner by the Unitarian body, to some proper office? He certainly would not oppose the second reading of the bill, but he must observe, that while he could not coincide in all the opinions expressed by an hon. gent. (Mr. Robertson), he respected that gent. for the manly boldness with which he had delivered his sentiments. He did not entertain those fears as to the safety of the church of England which the hon. gent. seemed to feel, in the event of this measure being agreed to. He, however, saw clearly enough the difficulties which were connected with the bill; and after the intimation which had been given that a number of measures were contemplated if this bill were carried, he hoped that some distinct principle would be laid down, to let the house understand the extent to which it was expected they would go.

The bill was then ordered to be committed on Tuesday next (and subsequently passed)

LORDS, FRIDAY, JUNE 3.—The Marquis of Lansdown moved the second reading of the Unitarians' Marriage bill. The bill related to a grievance not very difficult of remedy, but not the less felt by those whom it affected. The object of the measure was to remove the difficulties which stood in the way of the performance of the marriage ceremony with regard to certain individuals. Every unnecessary restriction and regulation which affected particular classes of persons in regard to such an object as marriage, ought surely to be done away without delay; and on this subject it was their lordships' duty to give every relief which was consistent with the safety of the state. Only those regulations which appeared to be called for by necessity ought to be maintained. The different regulations adopted in this and other countries resolved themselves into two kinds—namely, civil and religious. With regard to the former, in as far as related to matters of police, the bill maintained every civil right. The persons for whose benefit it was introduced were ready to submit to any civil regulation on the subject of marriage which their lordships might think fit to impose. The religious part of the question was totally distinct from the civil; and all that the bill proposed to do, was to provide against the depreciation of the sacred ceremony of marriage by regulations to which Unitarians could not conscientiously submit. In framing the bill the greatest attention had been paid to the feelings of all parties. Thus, in consequence of some of the ministers of the Established Church having objected to registering the marriages of persons who were united by a ceremony inconsistent with the principles of the church; the Unitarians, to obviate this difficulty, took upon themselves the expense of registering their own marriages. In fact, the bill professed to do, and did nothing more than afford

relief from regulations inconsistent with the conscientious scruples of individuals. None of their lordships would say that the opinions of the persons whom the bill proposed to relieve were not tolerated by law; and being so, the law ought to protect them, and facilitate to them the means of duly forming the most sacred of all the relations of society. It would perhaps, be asked, why were the persons for whose benefit the bill was framed so scrupulous? Some, he was aware, might make a compromise with conscience, and be able to satisfy themselves of the propriety of every opinion that was consistent with their temporal interests; but their lordships surely would not encourage a species of reasoning which led to a disregard of the truth of the most solemn declarations. Their lordships ought not to discountenance or despise scruples which were opposed to a practice inconsistent with morality and religion. On these grounds, he proposed the second reading of this bill.

The Archbishop of *Canterbury* intended to support the bill, because its tendency was equally to relieve Unitarians and ministers of the Established Church. The scruples of the Unitarians he believed to be sincere; but he was chiefly anxious to remove the difficulties in which ministers of the Church were involved by Unitarian marriages. He wished to do away with that unhallowed equivocation which now, under sanction of the law, took place at the altar.

The Bishop of *Bath and Wells* felt himself bound to state as briefly as possible the reasons which impelled him to oppose the principle of this measure. He did not see on what grounds marriage, according to the rites of the Church of England, was to be considered a grievance to the Unitarians. First, what were they called upon to subscribe? Merely the parties' names. He admitted, that they were obliged to make a declaration "In the name of the Father, and of the Son, and of the Holy Ghost;" but these very words were used in their own printed form of prayer. The words used by the Unitarians in their ceremony of baptism were—"I baptize thee in the name of the Father, Son, and Holy Ghost." They therefore could not justly object to their own form of prayer. He also admitted that the clergyman who performed the ceremony of marriage pronounced the benediction, in the name of God the Father, God the Son, and God the Holy Ghost. Now, if they did not think that they were the better for this, surely they could not feel themselves the worse for it. He defended the ministers of the Church of England from the charge of equivocation in the performance of this ceremony from the Unitarians. There was no ground whatever for such a charge, for the word equivocation implied saying one thing and meaning another, for the purpose of deception. Now there was no deception here, because the minister knew beforehand the opinions of the Unitarians, and the Unitarians knew those of the minister, so that neither party was deceiving or deceived. He therefore repelled with indignation the charge brought against the ministers of the Church; they were neither guilty of equivocation nor pious fraud. He denied that the Unitarians had any just grounds for saying that their consciences were violated. Occasions were continually occurring when points of doctrine laid down by ministers of the Church were disap-

proved of by some individuals, who said they would not again go to church to hear them; but that was no reason why the Church of England should not lay down the pure doctrines of Christianity. If the minister of the Gospel did not propound the true principles of faith in Christ Jesus, how else was the gainsayer to be converted? He contended that if this privilege were ceded to the Unitarians, it must also be granted to every other sect, however erroneous their opinions might be. The doctrine of the Unitarians gave them no right to be looked upon as a favoured sect; yet this concession would be calculated to give a spread to the opinions of that sect; although by denying the divinity of Christ, they laid the axe to the root of the tree of Christianity itself. For these reasons he moved, as an amendment, that the bill be read a second time that day three months.

The Bishop of *Litchfield and Coventry* considered the opinions of the Unitarians as utterly destitute of foundation; and grossly erroneous as they were, he must believe them to affect their conduct; but still he looked upon their present complaint as founded on fair grounds, and he conceived the bill entitled to their lordships' support, as being calculated to deliver the Church of England from the scandalous profanation of a compromise at the altar. He was a general friend to toleration; although he did not wish to give any encouragement to sectaries; but he did not conceive that the present bill would operate as any encouragement to them.

The Lord Chancellor would be very glad if any noble lord would inform him what he meant by the word "Unitarian;" for if a Unitarian were a person who denied the divinity of Christ, their lordships, before they could pass this bill, must first pass an act rendering it lawful for him to hold and propagate such opinions. The fact was that by 9th Will. III. certain penalties were enacted against Unitarians, who are denounced as blasphemers in the preamble of the act. That act was subsequently repealed; but up to this moment the profession of Unitarian opinions was an offence at common law. He considered the doctrines of the Unitarians as calculated to work an essential mischief in this country, and he called upon the house not to sanction that which the Judges of Westminster Hall must deny in judgment.

The Earl of *Liverpool* observed that Jews and Quakers might lawfully marry according to the rites of their own communions; for they were excepted in Lord Hardwicke's act. Now could any man assert that the doctrines of the Unitarians were more at variance with the principles of Christianity than those of the Jews were? The Unitarians denied the divinity of Christ; but the Jews denied the truth of Christianity altogether—they blasphemed and crucified him whom we adored. The same argument would apply to Mahometans and various other persuasions, if the members of them were sufficiently numerous in this country. But how did the law stand at present? In some cases marriage according to the rites of the Church of England was not necessary even amongst members of the Church of England itself; for they might go to France and be married by a Roman Catholic, or to Scotland and be married by a Presbyterian, and in both cases the marriage was binding. He believed

that if, in a country where a priest could not be had, a marriage were performed by a civil person, that marriage was valid by law; and the reason was, that every possible facility might be given to marriage, in order to prevent immorality. A *rt. rev. prelate* had asked, if the concession were to be made to the Unitarians, why not extend it to every other sect? The answer was, because it was impracticable. When a bill had been brought in for that purpose by a noble lord, he (Lord Liverpool) voted for it; but he afterwards stated, that he could not give it his support in the committee, having been convinced, by the speech of a noble friend of his, that it would be impossible to frame a general act to meet the object in view. They had an example for the present measure in the case of the Quakers. He thought, that where a sincere and conscientious objection was entertained, it ought to be respected. A Jew could not, a Quaker could not, a Unitarian could not, submit to have the ceremony performed by the Church of England, or, if he could, it was only by casting a slur on that church; for their lordships constantly saw in the papers statements of protests which must have filled them with disgust. The Church had a right, and it was her duty, to compel marriage according to her own rites, amongst her own members; but as she did not assume to be an infallible church, he did not see why she should look with any jealousy on the doctrines of those who were of a different communion. He therefore saw no objection to the present bill, and would give it his support.

The *Bishop of Chester* said, that there could be no question as to the importance of this subject to the Unitarians. If they were sincere in their belief respecting the divinity of the Trinity—and the awful grounds of their dissent would not permit him to doubt of their sincerity—and if they really considered that by submitting to the ceremony of marriage in the Church of England they were brought to worship the Trinity, he certainly thought them entitled to relief. He agreed that the present measure would afford not only relief to the Unitarians, but also to the clergy of the Church of England; and he would therefore put the former on the same footing with the Quakers, and all the other Dissenters, before the passing of the marriage act. He was not for imposing the doctrine or the discipline of the Church of England upon those who could not conscientiously entertain them: but the Unitarians were not prepared at present to give the necessary securities against clandestinity, and, consequently, he was impelled to oppose this bill. As, however, there was no very great grievance imposed upon the consciences of the Unitarians, he thought that, after having submitted so long, they might submit for one year longer to the privation of what he considered a right.

Lord *Redesdale* opposed the bill on the same grounds as the Lord Chancellor.

Lord *Calthorpe* contended, that it was unfair to place the Unitarians on the same footing as any other Dissenters, because, to other Dissenters who did not, like the Unitarians, deny the doctrine of the Trinity, the marriage ceremony was no hardship, but it was to Unitarians a very great one. He would not attempt to impugn the legal argument of the learned lord on the woolsack, but the present law, admitting it to be correctly stated by the learned lord,

afforded, in his mind, a strong reason for passing the bill. The church could not better promote her true interests than by conforming herself to the increasing knowledge and genius of the age. Nothing could be more injurious to her than to place her in opposition to liberal ideas. The church was able to rely on her own strength, and might, without fear, appeal to the augmented learning and assiduity of her clergy, to the increased number of her churches, and to the two great universities, which year after year sent forth distinguished champions to uphold her rank and maintain her security. He supported the measure, because he believed that it would add to the dignity and character of the Church of England.

The house divided—For the second reading—Content, 32—Proxies, 20—52.—Not content, 31—Proxies, 25—56.—Majority against the bill, 4.

### Unitarian Dissenters.

COMMONS, TUESDAY, JUNE 21.—Mr. *W. Smith* rose to present a petition signed by a small number of individuals, who were, however, well known and of great respectability, complaining of the situation in which they were placed by the existing laws affecting the profession of certain religious opinions. It had been stated (by the Lord Chancellor) in another house, in respect to the laws affecting Unitarians, that before any act could be passed for relieving them from the operation of particular statutes, it would be well that some bill should be passed to protect them from the penalties to which they were still subject at common law. From the same high quarter, there proceeded an appeal which it was impossible not to perceive to be addressed to him (Mr. S.) personally, and which went to remind him, that at the time a bill which he had been instrumental in carrying through parliament was passed—such bill having for its object to protect Unitarians in certain cases from legal consequences that might attach to the impugning of the doctrine of the Trinity,—he (Mr. S.) had made a declaration to the eminent person in question, whereby he agreed, as to all cases not provided for by such statutes, to leave the Unitarians liable to all the visitations that they might be still exposed to from the common law. Now, most unquestionably, he never made such a declaration. On a former occasion, when he was preparing a measure for the further relief of the Unitarians from the obligation of taking certain oaths, he had had an interview with the Archbishop of Canterbury, for the purpose of explaining to his grace the principle of the bill he was then about to bring into the house. The Archbishop of Canterbury, at that time, told him, that if his object were only to remove such penal liabilities as operated to prevent, perhaps, the fair and candid discussion of the doctrinal points to which the Unitarians excepted, he (the Archbishop) was willing to consent to the repeal of those statutes that might be thought to stand in the way of such a discussion; but, of course, not extending this understanding to any denial of Christianity in general, or to blasphemy; both of which were in fact excepted out of the operation of the bill. The object of the bill, the act of 3d Geo. IV., was simply to put Unitarian Dissenters on the same footing, as to the consequences of professing certain peculiar tenets, as all other Pro-

testant Dissenters had been placed by the Act of Toleration. Now it had been clearly stated by Lord Mansfield, that non-conformity, simply and as such, was no offence at common law. Why then it was very desirable that these parties should feel assured that the common law would not visit them as if their nonconformity were an offence. The 53d Geo. III., c. 160, which recited 19th Geo. III., exempted Protestant Dissenters from all penalties to which they were previously liable at law for non-subscription to certain doctrinal articles and oaths. So that nothing could be clearer than this fact—that it was only the denial of Christianity in general, or blasphemy, which was an offence at common law, and not mere nonconformity to particular points of doctrine. By introducing the 8d Geo. IV., he had flattered himself at one time that he had done some service by amending and explaining the law in the respects he had mentioned. The penalties denounced against the profession of these tenets by the common law were of the most severe kind—fine and imprisonment, at the pleasure of the judge, who was authorized, therefore, if he should see fit, to take from a man half of his fortune and his liberty for dissenting from the received doctrines of the established church. With the knowledge of facts like these, how was it possible, let him be allowed to ask, that he (Mr. S.) should have made any such agreement as that imputed to him (hear, hear)? A statement of so serious a nature ought not to have been lightly made in the quarter to which he was alluding.

Mr. Robertson expressed himself decidedly adverse to the prayer of the petitioners, and cautioned the house to be aware how they encouraged too much the prevailing spirit of innovation.

The petition was then brought up and read.

**LORDS, TUESDAY, JULY 5.**—The Marquis of Lansdown presented a similar petition to this house. He expressed his astonishment that it should still be wished to exclude the petitioners from the benefits of the constitution, without there being on record any case in which their competence to discharge the duties of good subjects could be questioned; and the more so, as the objection to them was founded on inferences drawn from scattered judgments and the words of old acts of parliament, without any proof that the opinions of those persons were of a nature to sanction such exclusion—without its being even pretended that they did not believe in those principles which formed the foundation of all morality—namely, the belief in a future state of rewards and punishments. Yet the Lord Chancellor had expressed a doubt as to the efficiency of a statute passed for the relief of these persons. The Unitarians, therefore, now prayed that they might be informed what their situation really was, that they might know on what conditions they owed allegiance as subjects of the realm. The petitioners ought not to be left under the obscure cloud which now hung over them, and which he hoped next session would be completely removed.

The Lord Chancellor said, that if the law turned out as it was supposed to be, he would then rather pass a law for the benefit of those persons than otherwise. When the question of what the law was came to be regularly discussed, he would state the grounds of his opinion respecting it.

Lord Holland observed, that the learned lord seemed to have forgotten that he had already twice spoken upon this subject in the course of the present session. He would not venture to say that the learned lord stated what the law was, but he did state it was such as ought to induce the house to pause before they passed an act for the relief of the Unitarians on the subject of marriage. The petitioners had taken the only manly course which they could adopt; and if the learned lord had followed the same example when he had doubts, he would have stated what really was the law, and not left it to be understood that he still believed them liable to be punished under the common law. This was a subject which called for inquiry, as it involved the interests of that great portion of the community which consisted of dissenters; for the doubts thrown out did not affect the Unitarians alone, nor even other persons who might impugn the doctrines of the Trinity, but every description of persons who did not belong to the Established Church. It appeared from the opinion of Chief Justice Foster, of Lord Mansfield, and of Chief Justice Willen—an opinion to which Justice Blackstone also seemed to assent—that the whole dissenting body in this country existed by sufferance—that they were all liable to be indicted—that their institutions, for the purposes of charity or education, all stood on a sandy foundation, and might be swept away by the law. However, on the late discussion of the Catholic question, those who approved most of this interpretation of the law, were in the habit of using many kind expressions towards dissenters. But the spirit of kindness with which our Protestant brethren, the Dissenters, were to be treated was plainly shown a few days after, when a part of that body came forward to ask of parliament a small boon, which many of the dignitaries of the Church, to their honour, declared was not merely a boon to the petitioners, but to the clergy of the establishment also. As soon as the bill came to be discussed, up jumped the learned lord and said, "Who are you? I have found out a law by which you are punishable—a law which I own is a disgrace to the books, but which proclaims you to be guilty of a detestable crime." This supposed application of the law to Unitarians was founded on the maxim—that Christianity is part and parcel of the law of England; for it was said, that to deny the Trinity is to deny Christianity. On the first of these points he should say little, for it formed no part of the present question; but as his attention had been drawn to it during those debates, he could not help being surprised to find upon what slender grounds it was founded. But, what was the meaning of this maxim? If Lords Raymond and Holt said that Christianity was part and parcel of the law of the land, and if Lord Mansfield said, in language more precise, that revealed religion was not to be reviled, and that to revile it was punishable, it followed that if these phrases were legal terms, they must have a legal meaning attached to them. Was it the Holy Scriptures which constituted the Christianity which was said to be part and parcel of the law? If so, then no persons who built their faith on those Scriptures could be said to deny Christianity. But perhaps the Christianity meant was that which existed at the time to which the origin of this law maxim referred. If so, their



lordships were placed in a curious dilemma, for they ought now to believe in that transubstantiation which every person was called upon to abjure before he could sit in that house. He wished the house and the public to see the consequences of extending the application of this maxim. He reminded their lordships of the important decision in the remarkable case of *Mr. Evans*, who, being fined for not accepting an office, refused to pay the fine on the ground that he, in taking office, would be required to conform to the Church of England, which, as a Dissenter, he would not do. He was answered that his very non-conformity was a crime, and therefore could afford no ground for his not paying the fine. But it was decided that *Mr. Evans* was not obliged to pay the fine. The ground of this decision was, that the toleration act gave a right of protection to all Dissenters. Since the passing of the late act relative to Unitarians, those persons stood in the same situation as all other Protestant Dissenters, and if the toleration act did not protect them, it afforded no security to any members of any sect whatever.

The *Lord Chancellor* said, on the occasion alluded to he had given no opinion of his own on the subject of the law as it applied to the Unitarians. He had merely stated what had actually passed in the courts of law in Westminster Hall.

### *Petition from Mr. Carlile.*

COMMONS, TUESDAY, MARCH 29.—*Mr. Hume* presented a petition from *Richard Carlile*, a prisoner in *Dorchester gaol*, calling the attention of the house to the circumstances of his case: from the statements of the petition, it appeared, that besides complaining of the length of his imprisonment, and his incompetency to pay the heavy fine imposed upon him by the Court of King's Bench, he complained of the conduct of Government in seizing his books under a writ of execution, and in retaining them still unsold in its possession. If the books had been those prohibited by law, it would have been easy to understand the principle on which the Government continued in possession of them; but many of the books seized were openly sold in all the shops of the country, and ought therefore to have been exposed to immediate sale by the officer who had executed the writ. Among them were 250 copies of *Volney's Ruins of Empires*, 250 copies of *Cobbett's Register*. The petition stated, that if these works had been sold at the time of their seizure, they would have produced a sum which would have enabled the petitioner to pay his fine. If this were so, he (*Mr. H.*) could not conceive a case of greater hardship. As a sincere friend to religion, he had always thought that the interference of the Government and of the Vice Society, with the proceedings of the petitioner, had been productive of great mischief; and he was sorry that the right hon. gent. (*Mr. Peel*) had not long since taken measures to put an end to the punishment which the petitioner was at present enduring. The petitioner ought either to have his property restored to him, or to be liberated immediately from the prison in which he had been so long immured.

The *Attorney-General* said, that the property which had been taken on the premises of the petitioner, was not at present, nor had it ever been in the hands of Government. It was in

the possession of the sheriffs; and if they were retaining it improperly, the petitioner had his remedy against them. Indeed the petitioner had already brought an action against the sheriffs, in which he had obtained either mere nominal damages, or else a verdict on which it was impossible for him to found any ulterior measures. It ought to be recollected, that if the sheriffs sold the publications taken in *Mr. Carlile's* shop, they sold them upon their own responsibility for their contents. He was sure, that if the petitioner would point out, either to the sheriffs, or to *Mr. Collingridge*, the secondary, any book which they could sell, without running the risk of an indictment for blasphemy, those books would instantly be exposed to sale. In the meantime, it was unfair to assume that the sheriffs had acted incorrectly. Their conduct had been acted by the Court of King's Bench, and had been pronounced to be perfectly correct.

*Mr. Peel* would merely say, that nothing was more difficult than to lay down a rule how long an individual should be imprisoned for non-payment of a fine. To say that a prisoner, who was incompetent to pay a pecuniary fine, should be released at once, would be to offer a premium for the commission of misdemeanors. His release must, therefore, depend upon other circumstances—such as the mildness of his behaviour, his conformance to the discipline of his prison, and his general character. Now nothing could be more violent and improper than the conduct of *Mr. Carlile*, and that was the chief reason why he had not felt himself justified in interfering on his behalf. He had given orders for the release of *Mary Ann Carlile*, who, like her brother, had been detained in prison for non-payment of her fine. Her conduct had been the reverse of that of her brother, and he had therefore recommended that she should be discharged. In order that the house might have some grounds on which to form an opinion of the conduct of *Mr. Carlile*, he would state that *Mr. Carlile* had given him notice, that after a certain day, which he named, he should consider himself illegally detained, and should feel himself justified in murdering any governor that might be appointed to guard him. Besides this, he had corrupted many individuals, both in the prison and in the neighbourhood, and had gloried in being able to continue, as before, his daring violations of the law. If he had abstained from such representations, and had submitted patiently to the discipline of the prison, he (*Mr. Peel*) might, perhaps, have consented to discharge the petitioner; but when his conduct was of the most violent and intemperate description, he was bound to take it into consideration before he consented to limit the period of his imprisonment.

The petition was laid upon the table.

THURSDAY, JUNE 2.—*Mr. Brougham* presented a petition from *Richard Carlile*, and six other individuals, whose names he mentioned. The petitioners stated, that they had been prosecuted, and were immured in different prisons of the country, for not being Christians according to the forms of the established church, and for stating their reasons why they were not so; and they prayed that the house would rescind the various sentences which had been passed against them, and admit them to the same toleration that was enjoyed by other Dissenters. No one who knew him (*Mr. Brougham*) would

suppose that he was inclined to patronise any species of indecent ribaldry, such as had been sometimes introduced in these discussions. He considered such ribaldry to be a crime in itself, and to be the very worst mode which could be adopted to propagate any kind of opinions. For, suppose the party who held such opinions to be right, and the rest of the country to be in the wrong, the expression of them in ribald or indecent language was calculated to affront the feelings and rouse the indignation of those whom he ought to conciliate rather than offend, if he wished to make them proselytes. He therefore said, that if these petitioners were right, the most unwise step they could take for the extension of their doctrines, would be to attack the received doctrines of the country in low and scurrilous language. At the same time he thought that the law ought not to press too heavily upon them because they appeared to be, in a certain degree, enthusiasts and fanatics; and toleration, as well as expediency, required that they should not be subjected to that degree of punishment which would entitle them to be considered, either by themselves or by others, as martyrs to the principles they professed. If they had taken a bad way to attack the religion of their country, it was incumbent upon us not to take a bad way to defend it; and the worst of all possible ways would be to inflict severer punishment than their offences required. Having thus endeavoured to guard himself against misconstruction, he would say, that he could conceive no harm as likely to accrue to religion from fair and free discussion; and that until the mode of discussion became so offensive as to excite against it the feelings of almost every man in the country, prosecutions for blasphemy were among the very worst methods of defending religion. That was his deliberate and sincere opinion, and he could hardly conceive any instance in which toleration could be carried too far, either to the religion professed or to the persons professing it.

Mr. Peel agreed that the prosecutions should not be instituted on the score of religious opinions, so long as those opinions were expressed in fair and temperate language; but he contended, that as soon as they vented themselves in scurrilous attacks on established institutions, they deserved the attention of the civil authorities. He maintained that the libels published by Carlile and his fellow-petitioners were of the description mentioned by the hon. member (Mr. Brougham)—they were revolting to the feelings of every moral man in the country, and were therefore properly selected for prosecution. He did not see how Mr. Carlile could be well held up as an object of mercy to the Crown. So far from expressing any contrition for the offence he had committed, he gloried in it, and not only boasted that he would continue to repeat it, but actually carried his boast into execution. To his sister, Mary Ann Carlile, the mercy of the crown had been extended; and she had shown herself not undeserving of it, by refusing to deal any further in the blasphemous publications of her brother.

Sir F. Burdett protested against the principle laid down by the rt. hon. Secretary, that a man who was suffering punishment for religious opinions, should not be entitled to any mitigation of it, unless he turned hypocrite, and retracted the opinions he believed to be true.

Mr. Monck ridiculed the idea of defending

religion by prosecuting blasphemy. There was no law in America against blasphemy, and yet he believed that no country in the world was more free from what was generally called blasphemous publications.

Sir F. Burdett contended, that upon the principles laid down by his learned friend below him, and agreed to by the right hon. Secretary, all prosecutions for religious opinions were inexpedient. It was agreed on all hands that religious opinions ought to be tolerated so long as they were expressed in temperate language; but it was now argued that as soon as those opinions were so expressed as to disgust every honest mind, then they ought to be visited by punishment. It appeared to him that under such circumstances they ought not to be noticed, because, if they were so poisonous as was represented, they carried along with them their own antidote (hear, hear). It was his opinion, that if Mr. Carlile had been left to himself, and had not been prosecuted by the Government, he would at this moment have been totally unheard of; whereas by prosecuting him, the Government had given him a notoriety which he could not otherwise have acquired, and had got themselves into a scrape from which they found some difficulty in getting out. He thought that the infliction of great severity on any man for his opinions, no matter how offensive they might be, was the most certain way not to wear him from but to confirm him in those opinions.

The petition was then laid upon the table.

Mr. Brougham, in moving that it be printed, said, that so far was the punishment inflicted on these petitioners from having put down publications of this obnoxious character, that they were now sold openly in all parts of the town (hear). It had been stated, that if the discussion of religious truths were calmly conducted, it ought to be permitted. A wonderful admission truly! Why, where would be the use of discussion if the argument was to be all on one side (hear)?

Mr. Hume wished the rt. hon. Secretary (Peel) would answer one question—was not this country the only country in Europe where individuals were at present imprisoned for religious opinions? He recollected the time when this country was filled with gladness and rejoicings because the inquisition was abolished in every country in Europe; but if our prisons continued to be filled as they were at present, with individuals suffering for religious opinions, England would succeed to the vacant post of inquisitor-general for Europe, than which he could conceive nothing more derogatory to its interests and honour (hear).

Mr. Peel declared it was quite ridiculous to talk of the prisons of the country being filled with sufferers for religious opinions, when it was notorious that there were not more than eleven persons confined for blasphemous publications; and of that number only five had been prosecuted since his accession to his present office (hear).

The Attorney-General defended the course which had been pursued by the law-officers of the Crown with regard to these petitioners. He contended that the prosecutions which had been instituted against them had been effectual in suppressing blasphemous publications, and argued that it was unfair to blame ministers for keeping them in prison, when they were consigned to it by a sentence in the Court of King's

Bench, arising out of those prosecutions. They were most of them imprisoned for selling Palmer's *Principles of Nature*, and he would say that a more horrible, blasphemous, and scurrilous libel, than that work, had never issued from the press of any country. The juries who had tried these petitioners were not more shocked by the work itself, than by the manner in which the parties had ventured to defend it.

Mr. Brougham did not blame the law-officers of the Crown for prosecuting these individuals, but rather for leaving them unprosecuted, till their offences had risen to such a height as to be thought fit ground for altering the old statute law of the country. He did not blame them for prosecuting Mr. Carlile; but he did blame them for bringing down six new acts upon the country, without trying the efficacy of those which previously were in existence. Long before those acts were passed, Benbow had kindly offered the throats of several individuals to the knife. Why had he escaped prosecution? If any man deserved prosecution, it was that individual; but the Government abstained from indicting him, and others who were equally culpable with him, in order that they might repeat their offences, and so afford a pretext for innovating upon the constitution. It had been said that prosecutions were not instituted because juries would not convict. He had always said, that, though juries might not be inclined to convict for libels against the Government, they would be ready enough to convict for libels inciting to assassination. With regard to Palmer's *Principles of Nature*—a work which he had never read—he would undertake to say that it was not half so bad as any publication of either Hume or Gibbon. Voltaire's works were full of ribaldry and indecency, and yet he had never heard that they had been prosecuted for corrupting the morals of the ladies and gentlemen at the west end of the town (a laugh). If works of this description were to be prosecuted, he thought that the prosecutions should be directed to the works read by the rich, instead of being confined, as they now were, to works read exclusively by the poor.

The petition was then ordered to be printed.

THURSDAY, JUNE 30.—*Mr. Brougham* presented a Petition from Mr. Richard Carlile—a person who would be considered as worthy of commiseration by every man in whom prejudice had not entirely obliterated the feelings of humanity. The unfortunate individual for whom he now presented the petition, had been assailed for the vehemence of his sentiments, but, for his part, he viewed that vehemence, considering all its features, as a proof of the sincerity of the sentiments by which the petitioner had been actuated. He would acknowledge that the petitioner's vehemence had exceeded his prudence; the fact was, that the petitioner had not acquired the orthodox prudence of making all sentiment and opinion bear upon certain worldly points. The petitioner had been suffering an imprisonment of three years, with a fine of 1,500*l.* The three years would expire upon the 16th of November next; he hoped that when that day arrived, his Majesty's Ministers would be induced to liberate this unhappy victim from his long and dreadful incarceration. He (Mr. Brougham) would take upon himself to say, that our laws, with the opprobrium that had been cast upon them for

merciless rigour, had never witnessed a case of such harsh and protracted confinement for any libel, however atrocious. If the Government would continue to insist upon this unhappy man's remaining in gaol until he paid his enormous fine, he had not the slightest hesitation in saying, that the unfortunate prisoner would remain in his dungeon to the end of his life, were that life to extend to thrice the usual period of human existence. A fine so utterly disproportioned to the means and circumstances of the offender no man existing had ever heard of. The very nature of a fine implied a ratio to the culprit's means of paying it, otherwise the word fine would be only a guilty means of accomplishing the most abominable objects of tyranny. In the present case it was quite preposterous to consider for an instant the amount of fine in any possible relation to the prisoner's means of paying it. He did not at all concern himself with the opinions of the petitioner. Whatever those opinions were, the unhappy man had a right to the observances of humanity and justice, and before being, under the pretence of a fine, sentenced to perpetual imprisonment, he had at least the right of being heard before the house. Mr. Carlile's petition stated, that he had been entrapped into an offence which, from the obscure and equivocal nature of the laws, it was impossible for him to know was an offence. The Act of 1813 protected that numerous class of persons that impugned the doctrines of the Trinity. Now Mr. Carlile, with thousands of others, imagined that the very essence of Christianity was the Trinity, and if the law allowed a man to impugn the one, he was by consequence permitted to deny the other. This construction had been put upon the Act of the fifty-third of the late King by thousands of the most zealous Christians, and by many persons of the profession of the law. Mr. Carlile had acted upon this generally received notion; yet his mistake of a law so equivocal, or at least so generally misunderstood, had exposed him to an imprisonment which was unexampled in this, and perhaps in any country of civilized Europe. Mr. Carlile had urged these arguments to the Court of Law from which he had received his extraordinary sentence. The petitioner went on to state that the King's Bench had told him the offence of blasphemy was punishable at common law; he found the authority of Sir M. Hale to be in support of that opinion, whereas, on looking back to my Lord Coke, a more ancient, as well as a higher authority, he found it laid down that blasphemy, heresy, and schism, were punishable by the ecclesiastical law, because such offences could not be taken cognizance of by the common law. He (Mr. B.) wished to guard himself against the impression, that in what had fallen from him he had in the slightest degree expressed his approval of the opinions of Mr. Carlile, or the manner in which those opinions had been promulgated. He thought it was the duty of every member to present any petition respectfully worded, without being deterred by a fear of being mixed up with the case or conduct of the petitioner. It was no offence against the law to entertain any set of opinions, either upon religious or political subjects; neither was it any to discuss them, provided they were discussed with decency and propriety. If a man were an atheist or an infidel, it was his misfortune, not his fault; but if he indecently and improperly published those opinions, then he was amenable

to the laws of his country. He should look upon an atheist or an infidel, if there were any such, with pity, not with blame; and he should consider him to be a rash man who would undertake to punish the free discussion of such subjects, provided that discussion were conducted with decency, as he considered that discussion, instead of being injurious, would be beneficial to religion.—The petition was read, and ordered to be printed.

### *Civil Offices held by the Clergy.*

THURSDAY, MARCH 17.—Mr. *Hume*, after a few observations on the general inconvenience of allowing clergymen to hold civil offices in corporations, and to mix themselves up in secular affairs, moved, "that an humble address be presented to his Majesty, praying that he might be graciously pleased to direct a return of the number of persons in holy orders of the church of England, holding offices in borough or city corporations, setting forth the names of the offices they hold, with the name of the city or borough in which they hold them; also whether the holder be a beneficed clergyman, and whether he holds more benefices than one, and how many; and also stating whether he be resident on his benefice or not."

Dr. *Phillimore* opposed the motion, as at best unnecessary.

Mr. *J. Smith* said, that if it should appear from these returns that the clergy were neglecting the duties belonging to their character, to engage in others that were alien to it, the house might then consider how far it ought to interfere to prevent such neglect in future.

Mr. *Peel* said, that he should oppose the motion, in consequence of the observation which had just fallen from the hon. member. If the object were to disqualify clergymen from holding civil offices, it would be more fair to the house to bring in a bill expressly for that purpose, than to entrap it into such a measure by mere implication.

Mr. *Fyfe Palmer* said, that for the very purpose of bringing in such a bill as the rt. hon. gent. suggested, it would be necessary that these returns should be furnished.

Mr. *C. Wyse* eulogized the general conduct of the clergy. He recommended the hon. member to withdraw his present motion, and to bring the question it involved fairly before the house; not with reference to any particular instance, but on the general principle of the eligibility of the clergy to civil offices.

Sir *John Newport* concurred in the recommendation of the preceding speaker.

After a few words from Mr. *Hume*, the gallery was cleared for a division, when there appeared—For the motion, 4—Against it, 22—Majority, 18.

### *Dr. Free's Case.*

LORDS, FRIDAY, JUNE 24.—Lord *Dacre* presented a petition from the churchwardens and others of the parish of Sutton, in the county of Bedford. It appeared that in 1814-15 Dr. Free had been appointed to the living of Sutton, in Bedfordshire. Soon after his appointment, circumstances took place of so disgusting a nature as to provoke the indignation of the parishioners. Not only did the petitioners complain of scenes which they had witnessed, but they stated that the clergyman had openly

about him a number of illegitimate children. Application had been made on the subject to a right rev. prelate, whom he now saw in his place in the house. That right rev. prelate directed proceedings to be instituted against Dr. Free in the court of Arches. The learned judges of that court had admitted the truth of the charges; but by the act of Geo. III. the time for proceeding against a clergyman for incontinence was restricted within very narrow limits. A doubt was entertained whether the period might not be enlarged, and that question was brought before the proper court. The petitioners prayed that the time for instituting proceedings might be enlarged. He hoped that the rt. rev. prelate would, in the course of the present session, take some decisive step on this subject.

The Bishop of *Lincoln* felt as strongly as any man could the gross immorality which was complained of by the petitioners, and none more anxiously wished to put an end to it by effectual means. Since he had been appointed to the see which he had now the honour to fill, he had felt it to be his duty to cause an inquiry to be made into the conduct of the individual mentioned in the petition. Finding that all the efforts of the archdeacon to reclaim him were unsuccessful, he had no course left but to bring the case into the court of Arches. It was his bounden duty to proceed in this matter; but still he must say that it was very hard that a bishop in prosecuting such a case should be put to an expense of 400l. or 500l. He must also observe, that he concurred in opinion with those who thought that the statute should be altered.

A similar petition was presented on the same day to the House of Commons by Mr. *J. Smith*; And on Thursday, June 30,

Mr. *Peel* said, that in consequence of the petition, he had desired the King's proctor to report to him the progress of the proceedings in question; and that officer had instructed him, that in consequence of an application which had been made in the cause to the court of King's Bench, the proceedings at Doctors' Commons were necessarily retarded for the present; but, as it was likely that the issue to be tried in the King's Bench would come on at the ensuing session of that court, it was most probable the cause would be remitted to and discussed in the ecclesiastical court, in the beginning of the next term. He was further informed by the King's proctor, that in the meantime no step which he could take would have the effect of expediting the hearing.

### *London Tithes.*

COMMONS, MONDAY, FEB. 14.—The Sheriffs of London appeared at the bar, and presented a petition from the corporation of London for amending the act of Henry VIII. respecting tithes within the city of London.

Mr. Alderman *Wood* complained of the grievance imposed upon some parishes in the city by the exorbitant demand of 2s. 9d. in the pound for tithe. He hoped the rt. hon. gent. (Mr. Peel) would facilitate the proposed arrangements, as he did last year, in the case of one of the parishes in Holborn.

Mr. *Peel* said, that in many of the city parishes he understood the most perfect understanding prevailed between the rector and the

parishioners, and in none had the clergy made the full demand complained of, but on the contrary contented themselves with 1s., 1s. 6d., and in a few instances 1s. 9d. in the pound. Wherever the demand of 2s. 9d. had been made, it was done by lay impropriators. So that between the clergy and their flocks there prevailed that good understanding which did not require the interposition of the legislature. Besides, he thought that any compulsory reduction of tithe would only have the effect of raising he rent *pro tanto* upon the tenant, without saving the inhabitants from payment of the additional sum.

Mr. Alderman Wood remarked that the observation of the rt. hon. gent. respecting the advance of rent, did not apply to the generality of tenants in London, for they mostly held long leases, and would of course immediately profit from being released from this exorbitant demand, which, considering the amount they paid, far exceeding other parts of the country, was an excessive grievance.

TUESDAY, MAY 17.—Mr. Alderman Wood moved the second reading of the London Tithe bill. He said it appeared to the promoters of this measure, that it would be highly desirable to have an examination into the merits of the subject before a committee of the house. The parish was willing to leave the question to be decided by any individual; or, if the Lord Chancellor would send it for trial by a jury, they would be content with that; but they resisted the enormous claim made by the rector for payment of tithes under a deed, the enrolment of which could not be proved, according to the provisions of the statute of Henry VIII.

Mr. Courtenay thought this was an extraordinary attempt to interfere with the rights of individuals. By an act of the 37th Henry VIII. it was enacted, that a decree therein mentioned should be enrolled. By that decree a rate of 2s. 9d. in the pound was made payable to the persons entitled to tithes, by the inhabitants of certain parishes in the city of London, included in that act. From that period to the present these tithes had been dealt with by the persons entitled to them as they would have dealt with rent-charges, or any other property to which their title was unquestionable. With respect to the enrolment, the evidence of presumption with respect to an event which took place 300 years ago would be admitted in this as it must in every other case. In the year 1647, an issue was tried, in which the question of the enrolment had arisen, and the jury upon that occasion found that the decree had been duly enrolled. Would the house, after this finding, entertain a bill, the preamble of which set forth the assumption that there had been no such enrolment (hear, hear)? He hoped that such an infringement on private property would not receive the sanction of the legislature, and that the parties would not be put to the expense of going into a committee.

Mr. Wynn opposed the bill, because the principle upon which it was founded might be applied to shake the possession of all the private property throughout the kingdom. If the decision in the Court of Chancery or elsewhere had been wrong, let an appeal be brought to the House of Lords, but he would not consent that the doors of this house should be opened to an attempt like that which was made by the persons promoting this bill. He had often thought

that even for public purposes the house had been too ready to interfere with private property; but in all these instances it should be remembered that a full compensation had been made to the persons interested.

Mr. Calcraft said he had been informed, that upon the trial to which the hon. member (Mr. Courtenay) alluded, the enrolment had not been brought into question. He agreed that it was of the deepest importance to preserve the rights of property, and to maintain old and settled decisions. In the case of the fire of London, the parliament had dealt with the property of the church for the benefit of churchmen; he thought, therefore, that they might now do so for the relief of the parish. Last year he had carried a bill providing a compensation for the rector of St. Andrew's, Holborn, and having the concurrence of the Duchess of Buccleuch, and the Bishop of London, he had experienced no difficulty. He wished for the trial of an issue, for the purpose of ascertaining the question of the enrolment, upon which the whole subject turned, and which would put an end to all litigation.

Mr. Courtenay explained, and referred to the report of the case tried in 1647, by which it appeared that the question of enrolment had been raised, and decided in the affirmative.

Mr. Peel could not but suspect that this bill had been drawn by the hon. Alderman (Wood) himself. At the period of the act the clergy made the same complaint as they did now, that "the citizens for their present riches were very stout, and would not pay." The act had been passed in consequence; and now the citizens of the present day, not less stout nor more willing to pay than those of Henry VIII.'s time (a laugh), came down, backed by the hon. alderman, and asked the house to violate the rights of private property. During the present session an amicable arrangement had been made between the rector of the parish of Bishopsgate (now the Bishop of Chester) and his parishioners. He was willing that every thing which was practicable should be done to effect such arrangements wherever similar disputes existed, but he opposed a bill which, like the present, attacked private rights.

Mr. Alderman Wood said, that the measure before the house had not been resorted to until all means of obtaining the trial of an issue had been attempted and failed.

The bill was rejected without a division.

MONDAY, JUNE 6.—Mr. Calcraft moved the order of the day for the second reading of the St. Olave (Hart Street) Tithe bill. This was a bill to settle the disputes, which had so frequently occurred in the parish, with respect to the amount of the tithe. When the present incumbent came to the living, the tithes did not exceed 250l. They had since been gradually improved until they amounted to the enormous sum of 2200l. By the present bill it was proposed to settle a fixed sum of 1800l. a-year on the incumbent now in possession, and with such provision he was satisfied. The patrons and parishioners were satisfied; but a difference had arisen as to what should be the sum to be paid to the future incumbent. The parishioners agreed to give him the sum of 1200l. a-year, but the Bishop of London wished to have it fixed at 1350l. Now, when it was considered that the parish consisted of only 175 dwelling-houses, and that the chief duty was performed by a cu-

rate, at a salary of 100*l.* a-year, he thought 1200*l.* a-year a very liberal allowance. However, if the bill were allowed to go into a committee, some satisfactory arrangements might be made on that subject. The hon. member then went on to contend at some length that the sum of 2*s.* 9*d.* in the pound was much too great to be demanded for tithe, and particularly objected to it on the ground that the decree under which it was claimed had never been enrolled, and therefore was not valid in law.

Dr. *Phillimore* objected to the bill, on the ground that under the name of a private bill it was a direct spoliation of private property. The decree under which this tithe was claimed had been enrolled and acted upon in many instances, and was binding, as it was meant to be, on all those parishes to which it stated itself to apply.

Mr. *Denman* supported the bill, and contended that the decree of Henry VIII. had never been enrolled—that in the commissions and arbitrations under Edward VI. and James and Charles II. for regulating the tithe in several parishes in London, the decree was not even mentioned, which it undoubtedly would have been if it were considered to be in force at the time.

Mr. *Peel* thought that as the matter involved a grave consideration of law, it ought to be left to the Court of King's Bench, instead of being considered in Parliament, where it might introduce a most dangerous precedent of interference in private property. The arrangement proposed by the parish might be liberal; but as it was permanently to affect the property of the church, the consent of the Bishop of London ought at least to be obtained for the compromise. At all events, he thought the subject had better be considered in the Court of King's Bench than in the House of Commons, unless they meant to set a bad precedent, which would apply as well to the Duke of Bedford's toll in Covent-garden as to the party in this case. The parties might arrange a bill next session better adapted for the purpose.

Mr. *Calcraft* begged the house to recollect, that the whole business for which the parish was willing to pay 1200*l.* a-year was performed by one curate for 100*l.* (loud cries of hear); that it was the cause of parish disputes, which had kept the parishioners from attendance at the church, and that this bill would heal them all.

The house divided, when the numbers were, for the second reading of the bill, 53.—Against it, 36.—Majority for the second reading, 19.

#### PUBLIC INSTRUCTION.

##### *Universities' Police Bill.*

MONDAY, JUNE 30.—On the report of the Universities' Police bill, a conversation ensued on the clause for enabling constables to arrest, and the magistrates of the University to imprison, for one month, any prostitute or lewd woman, found walking in the streets of Oxford or Cambridge, who could not give a good account of herself.

Mr. *J. Williams*, Sir *F. Burdett*, Mr. *Abercrombie*, Mr. *Hume*, and Mr. *Monck*, opposed the clause, as giving too great a power to constables. Mr. *Peel*, Dr. *Phillimore*, and the *Secretary-General* supported it, as conducive to the interest of education and morality in the Universities.

On the motion, "That these amendments be now read a second time,"

Mr. *J. Williams* moved, that the words "this day six months" be inserted, instead of the word "now."

The amendment was negatived without a division.

Mr. *J. Williams* then moved as an amendment, that the words "not giving a good account of themselves," be omitted, for the purpose of inserting "behaving themselves in a riotous and disorderly manner."

For the original clause, 37.—Against it, 9.—Majority 28.

The bill was ordered to be read a third time to-morrow (and was then passed).

LORDS, MONDAY, JUNE 27.—The Earl of *Shaftesbury* moved the third reading of the Universities' Police bill, which, being carried, he moved that the bill should pass.

The Earl of *Lauderdale* opposed the bill, and more particularly the clause which enacted, that any prostitute found wandering about should be deemed a disorderly person, and should be liable to be punished as a vagrant. But who, under this provision at once vague, unjust and cruel, was to determine who should be deemed a common prostitute? Under that pretext, any woman who happened to be walking in the public walks might be apprehended. His own wife might go strolling about from curiosity, and if taken up, not like, or from fright might be unable to say, who she was. He should move that the clause be omitted.

The Lord Chancellor defended the clause, which he considered necessary. In his time, although it might be otherwise now, the young men were not allowed to wander about.

Lord *Lauderdale* moved that the word "wandering" be left out, and the words "acting in a disorderly manner" be substituted in its stead.

For the amendment, 13.—Against it, 8.—Majority, 5.

##### *London University.*

COMMONS, THURSDAY, MAY 26.—Mr. *Brougham* moved to bring in a bill to enable certain persons to establish a college or university in the city of London. The object of this university was to bring the advantage of liberal education within the reach of those who could not afford to send their children to Oxford or Cambridge. He assured the house that it was not the intention of the promoters of this bill to throw the slightest imputation on the conduct, the acquirements, the capacity, the talents, or the principles of those who presided in those two learned establishments. That was so far from being the case, that many of the promoters of this bill were distinguished ornaments of the two Universities.

Mr. *Peel* understanding that no discussion at present was to take place, merely rose to guard against the probability of his being supposed to favour the bill, because he had not opposed it in his present stage.

Mr. *Brougham* said, he should be surprised if any opposition were made to a bill of which the sole object was to put education within the reach of the middling classes of society, without paying 250*l.* or 300*l.* a year for each of their children at the Universities. He wished to enable the middle classes to procure that education at a cheaper rate, which their servants,

their shoemakers, their farriers, and their blacksmiths were now getting almost for nothing at the different institutions which had recently been erected for their instruction.

Leave was then given to bring in the bill.

FRIDAY, JUNE 3.—Mr. *Brougham* moved for leave to withdraw his bill, with the intention of bringing it forward as a private bill. The alteration had become necessary, owing to certain regulations of the house. As great misapprehensions had gone forth respecting the measure, he should explain both what it was not and what it really was. In the first place, the object of the bill was to incorporate a company, with power to sue and be sued, to hold lands and issue shares, and make such executive arrangements as the case required. It would exonerate no individual from the common responsibility for the whole of the company's debts. The promoters of it had no intention of applying for exclusive privileges; of creating fellowships; conferring degrees or honours; of which the two Universities were now in possession. The plain object was, to enable thousands of persons in London, who could not, from many causes, give their children a college education, to educate their families in the only way which accorded with their habits and situation of life. The expense of a University education put it quite out of most men's reach. It could not be had at Oxford or Cambridge, on the lowest estimate, for less than 200*l.* a-year; without including collateral expenses, which often involved worse than mere pecuniary consequences in their train. He spoke from the very highest authority when he declared that the expense and dissipation at the two Universities was so great, that if not checked, it bid fair to injure those learned bodies. To such a pitch had this system been carried, that great pains were being taken to check it. He understood, too, that other great improvements were in progress at both. In fact, that classical studies were more attended to at Cambridge, and the severer sciences at Oxford—a change beneficial to both.—The object of this bill was to enable the people of this metropolis to bring home a good and cheap system of education to their own doors. According to the plan proposed, their children might have the benefit of lectures on the sciences, literature, and the arts, for about 10*l.* a-year, instead of 180*l.* or 200*l.* In these branches it was not intended that the professors should have sinecures, for their general salaries were not to exceed from 50*l.* to 100*l.* a-year, except in the particular case of the Oriental professorship, and perhaps one other: they were mainly to depend upon the success of the school. They were not to have houses, or take boarders. One great result of this new college would be, the formation, on cheap terms, of a good medical school. All experience had shown that this could only be had in the vicinity of large hospitals. Such schools might be had perhaps in Liverpool, Bristol, or Manchester, but in London only could means be found of rendering one generally useful. The importance of medical schools was no less felt in civil society than in the navy and army. In this establishment there was to be no religious test, nor any theological professorship; it being considered that the two great Universities, and the seminaries for the religious education of dissenters, were better adapted for

such a purpose. Theology was the only branch of education not included in the plan. It was proposed that the government of the college should be vested in a governor, or chairman, or some such officer, and 19 other directors, with other proper officers, to whom the discipline of the college was to be intrusted. He hoped this explanation would remove the many mistakes which were felt respecting the bill which he meant to bring in hereafter.

Mr. *M. A. Taylor* defended the system of education at Oxford, with which he had been for more than 40 years acquainted, and insisted that they had made the utmost strides to improve it, according to the growing lights of the times. He was in the habit of going to Oxford, and he knew that the discipline of the young men was unexampled, and could not be exceeded. Indeed, every thing was done, which discipline, science, and literature could accomplish. Habits of reading and study, formerly unknown, were established in the colleges. Noblemen and gentlemen of rank now commonly took real degrees of M. A.; whereas, formerly, persons of their rank never thought of taking any but honorary degrees. A great many foolish notions had got abroad about the idleness and dissipation of the Universities; but the specimens of science and learning which those venerable institutions had sent forth, within the last 40 years, were their best apologies. He felt sure that all the liberal views of his learned friend must fall, without a species of discipline which could not be attained in London.

The order was then discharged.

### *Tax on Newspapers, &c.*

THURSDAY, JUNE 2.—Mr. *Brougham* presented a petition from a bookseller of the name of Gifford, of Paternoster-Row, praying that the house would give greater means of circulation to cheap publications on science, philosophy, and literature, by diminishing the duty on printing paper—by reducing the tax on advertisements—by lowering the exorbitant duty on newspapers, and by allowing periodical publications to be conveyed by the post to all parts of the empire, on payment of a moderate sum for postage, not exceeding in any case, the amount of 25 per cent. on the value of the article transmitted.—Ordered to be printed.

The Chancellor of the Exchequer having moved the order of the day for receiving the report upon the Newspapers' bill,

Mr. *Hume* wished to submit one alteration which he conceived would prove highly beneficial to the country. The bill reduced the duty upon Supplements to newspapers containing nothing but advertisements, from 3*d.* to 2*d.* and he wished to reduce the whole duty to the same sum. He wished the house to consider the great injustice the present high duty did to all who advertised, and to the commercial interest generally, by diminishing the number of papers circulated. The stamp duty at present upon each paper was 4*d.* which was reduced by discount to 3*d.* rather more than the half price of the entire paper. In 1814 an additional duty of one penny had been laid on, but by the returns upon the table, it would be seen that so far from this increase of duty occasioning any increase of revenue, the revenue,

considering all the circumstances of the country, had since that period, diminished. From 1806 to 1814, the increase in newspaper revenue had amounted to £36,000l.; but in the year 1815, when the duty was raised, the amount of increase was only 4,000l. in the whole nine succeeding years, instead of being 10,000l. if the increase of revenue had been in ratio to the augmentation of the tax. This was a remarkable instance of an increase of tax occasioning, not an increase of revenue, but a decrease of consumption. It was necessary for the dissemination of information, that there should exist a number of newspapers, and the plan which he recommended would have the effect of greatly facilitating the distribution of that information. By reducing the duty on Supplements, they would benefit two or three papers only, without at all relieving the others. He called upon the *rt. hon. gent.* to look at the effect which the reduction he (*Mr. Hume*) proposed would have upon advertisements of commercial sales. He would instance the cases of Liverpool and Philadelphia. The commerce of the former place was six times greater than that of the latter, and yet the number of newspapers in Philadelphia was six times greater than that in Liverpool. In America, some small charge, perhaps 6d. was paid for each advertisement, and the paper itself cost three half-pence, and yet the number of advertisements published in Philadelphia alone was 70 times greater than the number published in Liverpool. If the duty were reduced to 1s., so that an advertisement might be inserted at 2s. or 3s. instead of 6s. or 7s. as at present, the increase in the number both of papers and advertisements would more than make up the deficiency. He approved of that part of the bill which did away with any limit to the size of the sheet. But why make a half-measure of it? Why not at once adopt his plan, when it was clear that it would in no way diminish the revenue? If the right *hon. gent.* would only adopt his plan for one year, he would guarantee him against any loss (a laugh). If he would only try it for a single year, and it was not then found effective, then he (*Mr. Hume*) would assent to any alteration which the right *hon. gent.* should think fit to propose. He concluded by moving, as an amendment, that the word "Supplement" be omitted in the first resolution, for the purpose of reducing the stamp on all newspapers to 2d.

On the question being put,

The *Chancellor of the Exchequer* said, that if he were about to sell an estate, he should not for a moment object to the *hon. member's* guarantee, but where half a million of public revenue was at stake, he must excuse him if he looked for some greater security. Besides, the newspapers were satisfied with the proposed regulation. The *hon. member*, however, objected, that lessening the duty on Supplements would benefit only a few, and was an injustice to the other papers. To this he answered, that he lessened a particular duty upon those who were obliged to pay it, and this surely could be no hardship upon persons not subject to that duty. When he considered the variety of taxes they had dealt with during the session, and the number of reductions which had been made; and when he considered, that he had had a nibble at the newspaper duty also, he could not at present consent to any further reductions. As

to the dread of any dearth of newspapers, that did not strike him as very probable. Scarcely a week elapsed in which he did not receive specimens of new papers which came out with a brilliant prospectus, promising the highest advantages in the way of information, and soliciting his patronage. He had not yet given it; but this would seem to show that the appetite for that species of amusement—or intelligence, if the *hon. gent.* would have it so—was not likely to be stinted by the smallness of the provision; there were abundant means for gratifying it at all times. He must, therefore, under these circumstances, decline acceding to the amendment.

The amendment was then put and negatived, and the original resolutions agreed to.

## PUBLIC HEALTH.

### *Quarantine Laws.*

WEDNESDAY, MARCH 30.—On the motion that the Quarantine Laws bill be read a second time,

*Mr. J. Smith* said that he considered the provisions of this bill to be highly useful, and was only sorry that the Board of Trade had not thought it right to recommend still further alterations in the quarantine laws. He was of opinion, that more might have been done with safety. *Dr. Maclean*, who had had greater opportunities for examining the nature of the plague than any man living, had declared it not to be contagious; and had likewise stated that the question was not so much a question of science as a question of fact, on which any man, who was in the habit of weighing testimony, was qualified to decide. It had been believed in England for many years, that the contagion of the plague was capable of being conveyed in clothing and in goods from one country to another, and that cotton, either in a raw or manufactured state, was the medium by which it was most easily conveyed. Now, he was able to state as a matter of fact, that there never had been an instance of the contagion of fever being conveyed by clothing or goods of any kind. He might urge as a proof of this position, that Holland, which of all our commercial rivals traded most to those parts of the world in which the plague was prevalent, had never thought it requisite to enact any laws of this kind; and what was called quarantine in Holland amounted to nothing, as it never extended to more than three or four days' duration. He had a document in his hand, which showed that a vessel, which had arrived at Amsterdam or some other port of Holland with an unsound bill of health, was permitted to discharge her cargo within three or four days after her arrival. As far, therefore, as the example of Holland went, it was evident that no danger had arisen from the importation of goods from countries visited by the plague. He would mention another fact, which could not be disputed. There was no instance of any inspector of the lazarettos having any fever since their existence in this country. *Mr. Turnbull*, our Consul at Marseilles, had informed him, that though the coast of France in his neighbourhood was peculiarly liable to contagion, supposing contagion to exist, and though vessels were almost daily arriving at Marseilles from the plague countries, there was no instance of any expurgator having taken the plague since the year 1729. In that year an individual,



who was opening a bale of cotton, suddenly dropped down dead. It was said that the contagion was so strong that it killed him immediately: but the circumstance admitted of a more natural explanation; it was probable that the man had died in a fit of apoplexy. With regard to other lazarettos, it was not in his power to make the same inquiries, but he had little doubt that if they were made, they would be attended by similar results. It was stated by Dr. Maclean and other gentlemen acquainted with the affairs of Turkey, that at Constantinople, when thousands of victims were dying of the plague, their clothes were regularly sold, and worn with impunity by the purchasers in the public market. At Aleppo, the plague was often prevalent. From that city caravans passed with goods into almost every part of Asia. There was no instance on record of the plague ever having been communicated by means of those caravans. There was also considerable intercourse between Turkey and Persia; and though the former country was often a sufferer from the plague, that horrible visitant had never made its appearance in Persia. Looking, then, at these facts, he would ask the house to consider whether no better cause than contagion could be found for the diffusion of the plague. Many doubted whether the disease which ravaged London in 1665 were the plague or not. Yet, even if were the plague, it might be accounted for by the mode of living which at that time prevailed in England. They knew that in the reign of Elizabeth her presence-chamber was strewn with rushes, and that the usual diet of the ladies of her household was salt fish, hung beef, &c. From such circumstances it might be easy to conjecture what the habits and diet of the common people would be in little more than half a century afterwards: and under such habits and such a diet, coupled with the want of cleanliness and want of room which then existed in London, it could not be surprising that a fever, with all the appearance of plague, should have sprung up and diffused itself widely. Now, let them apply these circumstances to the inhabitants of Smyrna, and the other towns on the coast of Asia Minor. In those places the same want of cleanliness, the same disregard of wholesome habits, the same carelessness about diet, now prevailed as had formerly prevailed in London, and were in themselves sufficient to account for the prevalence of the plague among them. It was curious to observe that the manner in which the plague arose and disappeared was perfectly consistent with these causes. It generally broke out in the poorest and most confined parts of the town, in sultry weather, and began to disappear as the heat decreased. Indeed, if it were not dependent upon such cause, it was evident that the plague, supposing it to be contagious, must long since have depopulated the globe. In 1811, a committee was appointed to examine into the state of the quarantine laws, and that committee determined, with only one dissentient voice, that the plague was contagious. In looking over the evidence appended to the reports, he found that the physicians examined before it, were all, with two or three exceptions, in favour of that doctrine; and he believed that it was upon the opinions expressed by the physicians that the committee formed the report which they afterwards submitted to the house. Since that time another investigation had been instituted into the subject, and the last investigation dif-

fered from the first in this important particular—that on the first none but contagionists had been examined, whilst on the second the anti-contagionists, if he might use such an expression, were also allowed to be heard. There was this remarkable circumstance in the evidence of the contagionists,—they agreed with wonderful unanimity as to the existence of contagion, but differed most miraculously in their account of its nature and causes. The inference which he drew from that circumstance was—that the question on which they gave such round and decided opinions was not properly understood; and his reason for making that statement was, a hope that the moment would be hastened by it when their former inquiries might be reviewed and brought to a satisfactory conclusion. The existing system of quarantine law, unless justified by necessity, could be justified by no other reason. It was prejudicial to the best interests of the country; it obstructed commerce; it impeded science; it was injurious to those who travelled either for business or for pleasure: it was connected with many superstitious feelings; and in regard to the increasing commerce we were now carrying on with Egypt, it would be utterly destroyed, if some alterations were not made in our quarantine regulations. Since 1819, many medical men had changed their opinions on the doctrine of contagion. Dr. Maclean had made many converts, notwithstanding the professional jealousy by which he was originally assailed. Dr. Armstrong, who was more conversant with cases of fever than any other physician in the metropolis, stated, that not a year elapsed in which he did not visit some hundred cases of typhus fever, that the symptoms of it were the same as those of the plague in Egypt, and yet in no instance had he ever suffered by the contagion. It was the knowledge of these facts that led him, (Mr. S.) to express his regret that Government had not gone further in their improvement of the quarantine system than it had done. At the same time he must mention a fact, which he considered as highly creditable to Government. A vessel had arrived at Liverpool with a foul bill of health. According to the quarantine regulations, it ought to have remained fifty or sixty days without unloading its cargo. Now this foul bill of health had not arisen from any of the sailors having been sick on the voyage, but from a single old woman having died of fever, which some people called the plague, at the place from which this ship sailed. That circumstance made all the ships foul which sailed from the place, and the consequence was, that several of them, which had cargoes on board, did not sail at all. The vessel in question had, however, come to England, and on its owners making a suitable representation to the proper quarter, had been allowed to unload, and had since sailed on another voyage. He thought that the Government had acted very wisely in dispensing with the regulations upon that occasion, and he trusted that they would not hesitate to exercise a similar discretion whenever similar facts should seem to require it.

Mr. Wallace admitted that those individuals who were formerly most convinced of the existence of contagion, were now much inclined to doubt the correctness of their opinions. Still there were considerable difficulties to be overcome before a conclusion could be arrived at, like that at which the hon. member wished to

arrive. It was evident, that no committee, whilst medical men stated that contagion was not only possible but probable, could bring themselves to recommend to the house to remove every safeguard which existed against it. It was incumbent upon the house, when the weight of such authority was against the removal of the quarantine laws, to act with peculiar caution, especially as a false step in this case might be attended with irreparable injury.

Mr. *H. Gurney* said, that contagion was often capricious and unsettled in its operation, but there was no climate under Heaven which was not susceptible of its ravages. It was inconceivable to him how any persons could be mad enough to wish to incur the risk of introducing the plague into England for the sake of the cottons of Egypt. Surely the health and welfare of the people of England were more dear to the house than the paltry lucre of a few merchants at Liverpool.

Mr. *Hobhouse* had no doubt but that the house would come to an exactly opposite conclusion from that of his hon. friend who spoke last. The circumstances connected with the plague of London flatly contradicted him. All the phenomena of that plague agreed with the character of epidemic, and not contagious disease. Different parts of the town were infected with it, while others were entirely exempt. It was generally fatal to new comers, while others were not affected at all. There were portions of London and its vicinity where the disease made no appearance. The villages of Hampstead and Highgate were wholly free from the malady, though the intercourse with the metropolis was not for a moment suspended. Another similarity was most remarkable, and which, in his judgment, extinguished the very idea of contagion, that the plague of London, in the same way as in Egypt, ceased altogether when the disease was at its greatest height. In Egypt it was ascertained that the disorder decreased as the waters of the Nile increased. On what principle of an infectious disease was it possible to reconcile such an effect? It was true, that for some years most eminent professional men did believe that the plague was communicated by contagion. But when the question had been brought before the world recently, some very able men had most laudably stated that their ideas had changed. Amongst those was Dr. *Rush*, of the United States, who had most meritoriously published a recantation of his former opinions, as the best reparation he could make for the support he had given previously to the delusive views of contagion. But it was a mistake to state that in ancient times the plague was so considered. It was only after the council of Trent that such a belief prevailed. The most accurate investigators had, in his opinion, satisfactorily proved that it was attended with all the phenomena which characterized epidemic diseases. In the great plague of Malta in 1813, it was found that on one spot of that island all the residents died, while in another village, not very distant, none of the inhabitants were attacked. But it was said that Dr. *Maclean* had himself been infected with the plague at Constantinople—but those who made that objection did not state these facts, that though the doctor was afflicted, yet of nineteen medical and other attendants, who waited on the sick, and actually resided in the Pest House, not one was

attacked (hear, hear), while Dr. *Maclean*, who was not in such close contact, was diseased. It was well known that the French physician, Dr. *Assalini*, had inoculated himself with the plague virus, but the infection did not take place. Napoleon Bonaparte had repeatedly touched the pustules of the deceased soldiers, and with perfect security. But, notwithstanding his own conviction on the point, he (Mr. H.) still considered that his Majesty's government were quite right in not incurring a responsibility—they were not to be expected to meet the alarm which the terrors of certain ladies and gentlemen might produce, lest the plague might be brought from Alexandria to Liverpool in a bale of cotton. These quarantine regulations were attended with a very great public expense, besides a great commercial injury. The regulations against the communication of the plague at Malta, had cost a million of money. In Spain, a very great change of opinion had taken place relative to the character of the yellow fever. It was true that certain physicians in the Cortes had contended for the necessity of guarding against its spread as contagious. But the whole of the professional men at Barcelona, where Dr. *Maclean* was at the time, held a contrary opinion. With respect to the opinions of professional men, there were many reasons why much confidence should not be placed in their conclusions. They were generally under such shackles from their very calling, that they were rarely found the friends of improvement. But he would say of that individual whose name had been so deservedly eulogized that evening—he meant Dr. *Maclean* (hear, hear), that he was one of those extraordinary persons, destined as well from vigour of intellect as unremitting exertion and industry, to create a great change in the world, and to whom, in future ages, the finger of the historian will point as one of the benefactors to his species (hear, hear).

Mr. *Trant* said, that when he was in Cairo, he was given to understand that the plague generally broke out in June—the Christians believed, rather superstitiously, that it was always on St. John's day. But the fact which was believed on better grounds was, that it generally broke out in the quarters of the Jews, who bought all the old clothes, and among whom were the parties first infected. The house would compare that fact with the arguments of those who considered it impossible that bales of cloth goods could communicate it. As to the fanciful line which prevented the march of the disease into Upper Egypt, it was his peculiar fortune to see that violated also. The line itself was purely imaginary, and the fact had no foundation but that of Mahometan superstition. The people of that religion asserted and believed that the plague could not pass beyond the latitude of Mecca, because that was the city of their prophet. Now, when he was making his way through Upper Egypt, the plague was raging as far south as Mocha, though that was a circumstance which had not been known before within the memory of man. The plague prevailed at Alexandria while he was there. A surgeon with whom he was acquainted disbelieved the theory of contagion, and went among the patients in the hospital. He did not then take the infection, but wishing to push his experiments to the utmost, he got into a bed which had been occupied by one who had the in-

section. He then became infected, and died.

Sir R. Wilson said, that when he was in Egypt the army formed two divisions. The one which was stationed at Alexandria took the plague; the other, which was generally in motion, was not touched with it. The general conjecture was, that the stationary force was infected because it was permanently exposed to the atmosphere in which the epidemic prevailed, and the moving division did not continue in it long enough to take the infection. The moving division of the British army passed through villages infected with the plague without being touched with it. Still it was not the business of government to attempt to force public opinion upon a subject of this nature. They ought rather to endeavour to soothe apprehensions, however ill-grounded.

Mr. Hume said, that he was in Alexandria while the plague was there, and that the irregularity with which it was known to break out in Egypt, while the whole coast of Asia Minor was quite free from it, proved that the principles upon which the quarantine laws had been enacted were not correct.

The bill was then read a second time.

FRIDAY, MAY 13.—On the motion for the house resolving itself into a committee on the quarantine laws bill,

Mr. J. Smith observed, that in the present system of quarantine there were obvious anomalies to which he felt it a duty to object. So ineffectual was it to accomplish its ostensible objects, that it was notorious that cargoes were frequently brought from the Levant to Holland, where a different and milder system of quarantine laws prevailed, in order to effect the introduction of such goods with the most perfect facility into England; and yet in Holland the plague had not made its appearance for a long period of time, notwithstanding the great amount of imports into that country; nor in France or England for upwards of one hundred years. He did not now mean to enter into the history of this question; but he might be allowed to notice, that in 1819, several medical and other experienced gentlemen were examined upon it. They only agreed in affirming that this disease was contagious (hear, hear), but in no other point did they concur. In 1824, other individuals were examined; but the only witnesses examined before that latter committee were they who were decidedly contagionists, and on that principle all were agreed. One should have thought that their evidence would have concurred on that topic, therefore. No such thing. Their evidence was so unfavourable to contagion generally, that one of them pronounced Great Britain to be perfectly free from it eight months out of the year. Another medical man, of great eminence, expressed a doubt whether the plague ever passed Cape Finisterre. Persons of the highest distinction in the medical profession had now determined that the yellow fever—that scourge of other countries—could be no longer a matter of dread to Great Britain. Upon equally high authority, it was now held that typhus fever was not contagious. Upon the whole, he considered that it was impossible, with propriety, to trust the revision of these laws to a committee. The first proceeding should be, the appointment of a commission, consisting of medical practitioners partly, and partly of men of general

science and experience, charged to collect and examine into facts connected with the propagation of the plague. With respect to the recent fever at Barcelona, the most eminent physicians in France scoffed at the idea of its being contagious; and even when the Cordon Sanitaire was established with the ostensible design of preventing its diffusion, they knew better than to believe that such was its real object.

Mr. Huskisson was extremely desirous that the public mind should be set at rest on this subject. It would, unquestionably, be a great advantage if the whole of the quarantine laws could be done away with; but the facts on each side of the question were so strong, that it was necessary to treat it with extreme caution. It would be highly injurious to our commerce, if a notion should get abroad that we were disposed to pay no attention to the regulations which other countries thought fit to observe on this subject. The mere notion that we had intended to do so, had already had the effect of inducing the authorities at all the ports of the Mediterranean to put British ships, wherever they might come from, under quarantine. He had satisfied the ministers of the King of Sardinia and of the King of France, that his intention was only to remove some of the obstacles which existed in the way of our free intercourse with their ports, and the regulations which they had before insisted upon, under the impression to which he alluded, had been in consequence removed from the ports of Genoa and Marseilles.

Mr. D. Gilbert said, that the difference of opinion which existed among men best qualified to speak upon this subject, and the whole course of past experience, enforced the necessity of all prudent precautions. The black assize at Oxford, within the knowledge of every man, and many other instances more recent, but not perhaps less remarkable, proved the possibility of infection being communicated by accidents in themselves extremely trifling. However desirable it might be to relax any restrictions upon our commerce, it was not less imperative to provide against the possible introduction of contagious diseases into this country.

Mr. Wilmot Horton was of opinion that the fact of the existence of contagion in the Mediterranean had been satisfactorily proved. The danger of that contagion being communicated by means of cotton, was considerably lessened by two facts: the first, that cotton was always packed in the sun, and the effect of the open air was such as to prevent infection; and next, that the first effect of the plague was to deprive the persons seized with it of their strength; thus no man suffering under it could be employed in such labour as the packing of cotton.

Mr. Hume wished to know whether the regulations adopted at Malta were continued?

Mr. W. Horton said, that a Board of Health had been established at Malta, and was still continued there.

The report was then ordered to be brought up on Monday.

THURSDAY, MAY 19.—The order of the day for bringing up the report on the Quarantine Laws bill having been read,

Sir I. Coffin said he could state from his own personal observation, that the plague was contagious. When he was at Malta, the disease was brought to Valetta by a shoemaker, in some leather. The man died, and so did the family with whom he resided. The disease was soon

pronounced to be the plague, and spread rapidly; and had it not been for the precautions adopted by Sir Thomas Maitland and the other English officers on the spot, he did not doubt that all the inhabitants would have perished. A *cordon sanitaire* was drawn round Valetta, and every person who attempted to pass it was shot. The disease was at length subdued, after five thousand of the inhabitants had been carried off. It was next conveyed to the island of Gozo, in the clothes of some of the persons who died at Valetta, and 600 persons were destroyed in that island. From Gozo the disease was carried to Corfu, by means of a skein of cotton, which was conveyed thither by a young lady, who perished with all her family. At Tunis, Tripoli, and Algiers, it was the custom of the Franks, as Christians were there called, the moment the plague made its appearance, to shut themselves up in their houses, to receive their food on the roofs, and to eat only stale bread, for new bread had the faculty of conveying the disease. In consequence of taking these precautions, there was scarcely an instance known of a Frank falling a victim to the plague. A ship sailed every year from Alexandria to Algiers, laden with the clothes of those who had died of the plague, and thus the disease was continually renewed. We were in the habit of importing a great quantity of cotton from the Delta, and if the plague should prevail in that district, he had no doubt that it would be brought into this country (hear). All articles coming from the Delta ought to be scrupulously examined (hear). A writer, he saw, had lately maintained that the plague was not contagious. This could only be some hyperborean philosopher with a hide like a rhinoceros (a laugh). It had likewise been stated that the plague had never been introduced into England. That was not correct; the plague had prevailed in England four different times, and 180,000 people had been carried off by it (hear).

Lord *Belgrave* said, that to prove that the plague was contagious, no more was necessary than to refer to the case of Dr. M'Lean, who went to Constantinople to endeavour to ascertain the fact. He expressed a desire to be placed where the disease was raging most. His wish was complied with; and the consequence was, that he caught the plague, though it did not end in his death. If any proof were wanting to shew the fallacy of his opinion, it might be found in the conduct of the Franks in the countries of the East. The instant the plague appeared, they closed their doors, subjected all their food to a process of fumigation, and shot their cats (a laugh), for it was known that those animals could convey the disease. Having taken these precautionary measures, it never happened that they were affected by the disease. The Mahometans, on the other hand, who considered the plague to be a sacred disease—who were told by their religion, that if they perished by it, they would be received at once into the bosom of Mahomet, or what perhaps they would rather prefer, would be permitted to enjoy everlasting fruition in the arms of the *houris* (a laugh)—took no precaution against catching the disease, and were therefore carried off by thousands. He knew a respectable merchant connected with the Levant Company, who expected by the operation of the bill to put into his pocket about 4,000*l.* or 5,000*l.*; but, much to his credit, he had publicly stated that he should do so with regret, be-

cause he considered it the price of blood (hear). The difficulties which we should experience in our export trade, in consequence of passing the bill, would more than counterbalance any advantage which might result from it to the import trade (hear). In Naples and Leghorn, England was already considered an infected country, and our ships were not allowed to land their cargoes until they had waited a considerable time. This, no doubt, would be productive of great inconvenience to merchants. He trusted that hon. members would oppose this measure; and, like the ancient prophet in the wilderness, "stand between the dead and the living, and stay the plague" (hear).

Mr. C. *Grant* said, that the bill, properly looked at, was open to none of the objections which had been taken to it. The committee of foreign trade had sat last year on the subject of the quarantine laws. Having received a variety of complaints as to the difficulty and impediment which those laws placed in the way of commerce, the committee had applied themselves to consider, not whether the plague was or was not contagious, but whether, assuming it to be contagious, any part of the existing restrictions could be dispensed with without danger; for the committee had actually set out by assuming that the plague was contagious, and had refused even to examine any evidence to the contrary effect. It was the opinion of Sir Gilbert Blane, and of several other physicians, decided advocates for the theory of contagion, that, admitting the plague to be contagious, all the provisions of the present bill might be carried into effect with perfect safety. The effect of the bill had been entirely misunderstood by those who opposed it.

The report was then received. To be read a third time to-morrow.

FRIDAY, JUNE 3.—The order of the day for the third reading of the Quarantine Laws bill, having been read,

Mr. C. *Grant* rose to correct a very strange misapprehension which had gone forth, as if it had been the design of the framers of this bill, and of the bill itself, to do away entirely with the precautionary system of the quarantine laws. Those who so thought and argued, could have read neither the bill nor the report upon which it was founded. It never had been the design of Government to relax the sanatory principle of the quarantine laws, but, on the contrary, to strengthen it by taking away the inoperative capital penalties, and substituting others which were likely to secure the efficiency of the laws. It had been recommended in the committee, whose investigations had been so frequently made the subject of discussion in that house, that goods from the plague countries should perform quarantine of 31 days after being landed at the lazaretto. The conclusion at which the whole of the evidence taken before the committee seemed to point, was the same as the recommendation of the most experienced practitioners—namely, the propriety of reducing the number of days under the existing law devoted to quarantine. It would seem, therefore, upon the whole, and even according to the opinions of those who were most apprehensive of contagion, that this important principle was established—namely, that in respect to ships arriving in the ports of this kingdom from countries infected with the plague, the number

of quarantine days might properly be reduced. In regard to clean bills of health, it was not necessary to detain the house on that subject.—He thought that it would be sufficient that vessels arriving with clean bills should be visited by proper officers, who would report to the Privy Council, and upon favourable answers, which would be received by return of post, such vessels might be admitted. In all arrangements of the kind the object of Government would be, that the modifications to be adopted, should not exceed the modifications recommended by the medical practitioners. The King in Council was already even, under the existing system, vested with large discretionary powers in regard to the quarantine laws. The Privy Council might declare the trade with other countries, besides those already included, to be subject to the regulations of quarantine; and it might by its order remove that liability from the trades at present subject to it. There was one other object which it was necessary to mention as one that had been maturely considered by the Government; and that was, the appointment of some experienced and able medical inspector, whose duty it would be to overlook all the reports made to the Privy Council, and to advise them thereon. It would be desirable, also, that he should inspect all the quarantine stations.

Sir Isaac Coffin read an extract from the letter of a physician, who had been eight years with our army in Egypt, in which the writer stated that a friend of his, a non-contagionist, had thought proper during his sojourn at Malta, to shut himself up in the little island of Gozo, when the plague had declared itself there. In a few days his temerity cost him his life (hear). He (Sir I. Coffin) was only surprised that the same fate did not overtake Dr. Maclean, who ventured to reside in the pest-house at Constantinople, among the plague patients confined there. In a very little time all the assistants he had caused to be hired at two dollars *per diem* perished of the infection, and every one of the patients too, leaving the doctor the only survivor of the whole company.

Mr. Conning was very anxious that the house should understand that the doctrine of non-contagion had really not received any countenance from the most experienced and practical men. The mischief which had been produced by the unreserved and confident declarations that had been made by the disciples of this doctrine, was much greater than perhaps those gentlemen were aware of. Already at Marseilles and at Genoa, a longer quarantine was imposed upon British shipping, than on the shipping of any other European nation. At Naples, in addition to the usual term of quarantine prevailing there, they had imposed a term of 21 days upon British vessels that had quitted Great Britain, ever since the gentlemen who were such determined non-contagionists had promulgated in all places their opinions (hear). Under these circumstances, he certainly did wish that hon. gentlemen would be pleased to keep such opinions a little more to themselves; or if they would continue their experiments, he heartily trusted that they would be tried, as such experiments anciently were, in *corpora vili*, rather than in a manner to prejudice the welfare of the community (hear). He was happy to say, however, that the public appeared to have no disposition to concur in the theories to which he had alluded.

Mr. Hume quite agreed that the mischief to which the *rt. hon. gent.* had just adverted, had been considerable, and he thought it was but right, that Ministers should do every thing in their power to contradict the opinion that had gone abroad, that our present quarantine laws were about to be repealed. But he had to complain that this declaration was not made, as it should have been, when the present bill was first introduced by Government. He could not help observing on the lecture which had been read by the *rt. hon. gent.*, however, to the hon. member for Westminster, and others who thought with that hon. gent. on the subject of contagion; in respect to whom the *rt. hon. gent.* had expressed so strong a wish that they would keep their opinions to themselves. Now he (Mr. Hume) was himself by no means satisfied that the principle of contagion existed to the degree in which it had been long supposed to exist; and at any rate he believed that the discussion of the question could not be productive of any harm. With regard to the appointment of that medical officer—the superintendant mentioned by the *rt. hon. gent.* (Mr. Grant)—he thought that the opinion of no single individual should be acted upon, in such vital matters.

Mr. Huskisson felt assured that if the hon. gent. would only think of the responsibility which attached to the Board of Trade, when left to decide upon the case of every vessel arriving with either a foul or a suspected bill of health, he would see that it was desirable they should have the assistance of some such officer, possessing the advantage of having visited countries where the plague raged, during its visitations; and whose observation and judgment, therefore, in that matter might guide the board in all questions of quarantine. At present there was no person attached to the Board of Trade, who had ever witnessed the ravages of plague at all. As to the objection taken by the hon. gent. that ministers should have made the declarations which the *rt. hon. gent.* (Mr. Grant) had made to-night upon an earlier occasion, the fact was, the *rt. hon. gent.* had in the very first instance stated the principle of the present measure. He (Mr. Huskisson) had seen the most idle reports in print about the intentions of Government in respect of bills of health; and he was obliged to concur with his *rt. hon. friend*, that the most serious mischief was occasioned by such means; and that they who professed the doctrine of non-contagion, although they were at perfect liberty to publish their theories in the usual course of publication, had yet no right to propound them in places and under circumstances where they might be erroneously supposed to have a certain degree of sanction from the legislature (hear). He had seen it stated in the newspapers lately, that a dangerous case had declared itself in the lazaretto at Sheerness; whereas, in fact, every one of the persons in or about that establishment had been strictly examined, and was found to be in perfect health. This report also had, as he had reason to believe, done us a great deal of mischief abroad.

After a few technical amendments, the bill was read a third time and passed.

LORDS, TUESDAY, JUNE 21.—The Earl of Liverpool moved the order of the day on the Quarantine Laws Bill.

The Earl of Derby said, that undoubtedly

some relaxations respecting quarantine were necessary for the convenience of commerce, but great caution should be used, and it was a very proper rule that all descriptions of goods liable to infection should be unloaded and well aired for a certain period previous to their being delivered. A discretionary power was now vested in the privy council, in consequence of which the regulation respecting airing might be altered or omitted. A power of that kind had always a tendency to be much abused. His lordship then went on to state, that the best authorities gave their opinion in favour of the contagious nature of the plague; and that it had been imported at different times in cotton goods or other merchandise into Cephalonia and Corfu.

The Earl of *Liverpool* observed that the object of the present bill was two-fold—1st, to shift the expense of quarantine from the owners of the ships exposed to it, to the country whose health it was necessary to protect; and 2dly, to abolish penalties which were unnecessary, or to mitigate those which were too severe. He allowed that an unfounded alarm had been spread among foreign states, and that decrees had been made, grounded on a mistake of what had been done or what was intended to be done here; but those alarms would subside, and those decrees be altered, as soon as the real object of parliament came to be known.

The bill was then read a second time; and finally passed.

## PUBLIC WORKS.

### *British Museum.*

COMMONS, FRIDAY, FEB. 25.—Mr. *Banks* moved that a sum of 15,416*l.* should be granted for the service of the British Museum for the year 1825.

Mr. *Croker* rose to repeat an observation which he had made last year respecting the price at which the catalogue of books in the Museum was sold. A catalogue was, as it were, the key of the Museum, and highly useful, if not necessary, to the persons who wished to consult the books. The price of the catalogue now was 7 or 8 guineas, and this made it wholly impracticable for poor scholars to procure it. He was sure the house would agree to no vote more readily than to one which would enable the Museum to sell their catalogue at a cheaper rate. He did not at present urge the printing of a new one, because until the King's Library, and other additions which had recently been made, should be open to the public, it would not be advisable to have a new edition.

Mr. *Banks* said the price of the catalogue was only about four guineas, but that, he was aware, was too large a price. He would take this opportunity of reminding the house of the collection which had been ceded by Mr. *Salt* to the British Museum. A sum of 4000*l.* had been given to him for that collection, but he was still a loser by it, owing to the sum which he had had to pay for the alabaster sarcophagus. Mr. *Salt* made no demand for the sum he was a loser of, but he (Mr. *Banks*) hoped that some opportunity would offer of remunerating him.

The vote was then agreed to.

Sir *C. Long* presented a petition from the trustees of the British Museum, which he begged to read to the house. Mr. *Rich*, who had been in the service of the East India Company, as their resident at the court of the Pacha of Bag-

dad, had made, during the many years in which he resided in India, a very extensive and valuable collection of manuscripts, medals, and antiquities. It was the wish of that gentleman, who was since dead, that this collection should be in the possession of the British Museum, in order, that being opened to public inspection, it might be the means of facilitating the discoveries and studies of persons of science. His widow, in pursuance of this desire of her late husband, had offered the whole of his collection to the trustees of the Museum at a reasonable price, which might be fixed upon by persons who were acquainted with its value. The trustees, when this offer was made to them, felt bound to make an inquiry into the value of the collection. They procured the opinions of Dr. *Macbride*, Dr. *Nicholls*, of Oxford, Professor *Lee*, of Cambridge, and of Dr. *Young*, all of whom were well qualified to estimate the worth of such a collection. They gave their concurrent testimony that it was highly valuable, and would form an important acquisition to the British Museum. The collection consisted of 900 volumes of manuscripts, in the Persian, Turkish, Chaldaic, Syriac, and Arabic languages. They contained commentaries on the scriptural writings, and were likely to afford very important illustrations of the sacred text. Another part of the collection was composed of Oriental and Greek medals, the value of which would be satisfactorily proved to the house when he told them that they were held in the highest estimation by the late Mr. *Payne Knight*, who had carefully examined them. The last part of the collection was a large quantity of antiquities, which had been discovered in the neighbourhood of Babylon and Nineveh, on which were inscribed characters which had not yet been deciphered, and which it was obvious never could be deciphered but by means of comparing them with other similar remains. Notwithstanding the long and intimate connexion which we had with Asia, the library of the British Museum was almost wholly destitute of the productions of Oriental literature. This was one reason why he recommended the purchase of the collection; and another was, that it was in itself complete and entire, and contained not one duplicate of any thing the Museum at present possessed. He had, in the course of last session, when he called the attention of the house to the munificent gift which his Majesty had made of the late King's library, expressed a belief that his example would be followed by others. He had great pleasure in stating now, that Sir *Richard Colt Hoare* had expressed his intention of presenting to the trustees of the British Museum, for the use of the public, the large and valuable library which had been collected by himself and his family. It contained, among other valuable books, a complete collection of Italian history and topography, and amounted to not less than 17 or 18,000 volumes. After stating that the computed value of the collection of the late Mr. *Rich* was 8000*l.*, of which 6000*l.* was for MSS.; 1000*l.* for the medals; and 1000*l.* for the antiquities, the hon. bart. brought up the petition, which was ordered to be printed.

He then moved, that a committee be appointed, as had been done in the case of the *Lansdown MSS.*, to report to the house their opinion on the proposed purchase; which was carried.

A sum of 7000*l.* was voted for the purchase of this collection in the committee of supply.

MONDAY, MARCH 22.—On the motion that 40,000*l.* be granted for the expenses of buildings at the British Museum,

Mr. *R. Colborne* said, that the Angerstein collection, which had been purchased by Government, and which contained many valuable specimens of art, ought, he conceived, to be placed in a more central situation than that in which the British Museum stood. He conceived that the British Museum was placed in a situation better adapted for the exhibition of works of science and of curiosity, than for the study of works of art. He wished to see Government lending every assistance to the progress of art in this country, and therefore he was desirous that the collection of Marshal Soult should be purchased.

Mr. *Peel* observed, that the testimony of Sir G. Beaumont, who wished his pictures to be placed in the British Museum, was to him conclusive upon this subject.

Mr. *Hobhouse* said, when he visited the British Museum, it was by mere chance that he discovered there were any pictures within its walls. He certainly wished that the national gallery of paintings should be separated from the British Museum. He did not like the idea of the great works of Raphael and Guido being placed in the same edifice with collections of animals and fossils. Such a mixture would be like uniting the Jardin des Plantes with the Musée. He certainly was hostile to having so many valuable works of nature and of art accumulated under the same roof, because they were, in case of fire, or any other accident, liable at one moment to the same catastrophe. He had no objection to allowing the supervision of the pictures to remain with the trustees of the British Museum. With respect to the collection of Marshal Soult (a collection, by the way, which he had obtained by plunder in Spain), it undoubtedly contained some very rich specimens of art; but, on the whole, it was a question, whether it was worthy of being purchased.

Mr. *Croker* spoke in favour of the erection of a national gallery in a central and commanding situation. To prove the necessity of this, he adverted to the fine collection of pictures at Dulwich, which was not very often visited; for Dulwich, he believed, was as far off as Russell Square, though he did not profess to know exactly where Russell Square was (laughter). Sir F. Bourgeois had given his beautiful collection to Dulwich college, merely because there was no place in town fit for its reception, and those to whom the offer of the collection was made did not choose to raise a building worthy of it. For the benefit of the arts in this country, the greatest facilities ought to be given to those who made them their study. A national gallery ought to be erected, not for the mere amusement of the curious, but as a place where the studious might learn a great lesson. Unless such an institution were placed in a situation where it was easily accessible, they never would have a great school of painting. *Virtuosi, cognoscenti*, and picture dealers might abound, but they were not likely to have a school in which painters of the first-rate eminence were to be found.

The Chancellor of the Exchequer said, he knew not in what hands the national pictures could be placed with greater propriety than in those of the trustees of the British Museum. He believed every body at all conversant with the subject admitted that they were the very best persons to whom the custody of so great a

charge could be given. As to the Royal Academy, he must say, that no man who had once seen the exhibition at Somerset-house could doubt that of all places in which works of art could be displayed this was the very worst. The archway was not large enough to admit more than one carriage. The only room in which sculptures could be exhibited must, of necessity, be on the ground-floor, owing to the weight of these productions. In Somerset-house the room appropriated for this purpose was so paltry a hole, that all the beauty of the works was lost, and he could not but wonder that any man of eminence would suffer his productions to be thrust into such an unworthy place. The other rooms were equally bad. The largest room was at the top of the building, and so long was the ascent to it, that no gouty gentleman or corpulent lady (and such persons had as good right to see the exhibition as those who were more active and less afflicted) could ever hope to attain the difficult height. He should be very glad to see some more convenient place provided for the Royal Academy, and in that case the Royal Society, who were much in want of such accommodation, could have the entire possession of Somerset-house.

Mr. *Croker* begged to call attention to the disgraceful way in which the Royal Society was at present lodged in Somerset-house. They possessed a fine library, but for want of room they could not use it. Many parts of it were put away in cases and boxes, which not only rendered the access to them difficult, if not impossible, but seriously injured the books. He hoped that the hint which had been thrown out that evening, would be shortly carried into effect, and that they would be put into possession of the apartments at Somerset-house now occupied by the Royal Academy. He had been for many years a member of the Royal Society, and he could assure the house that they were really prevented from discharging their duty to the public in a proper manner, owing to the want of proper accommodation, which they laboured under.

The vote was then agreed to.

### *St. Paul's and Westminster Abbey.*

FRIDAY, APRIL 22.—Mr. *Hume* objected to an item in the civil contingencies, a grant of 1,031*l.* to the Dean and Chapter of St. Paul's, for the alleged purpose of cleaning and taking care of the monuments in that cathedral. The pretensions put forth by the Dean and Chapter of St. Paul's were of the most extraordinary description. The public, for great national objects, had thought it advisable to expend some hundred thousand pounds in the erection of monuments to the memory of those who had achieved great actions, and had devoted themselves to the interests of the country, and the Dean and Chapter of St. Paul's arrogated to themselves the right of doing with the national monuments whatever their prejudices, their caprices, or their sordid interests might dictate. They would not admit that these national monuments, paid for out of the national funds, were in any respect public property; and assuming a right of ownership, they would not even allow the public to see them, without paying a fee of admission. The contempt and indignation of the whole country at this paltry and arrogant conduct, had been expressed in every shape, by the press and otherwise; and

as the public feeling and good principle of the case had not, in the slightest manner, affected the conduct of the Dean and Chapter, he would take the sense of the committee upon this grant.

The *Chancellor of the Exchequer* said, that it was incumbent upon the Dean and Chapter of St. Paul's to maintain that cathedral in repair, and that was no small expense. The charge of cleaning and keeping in good condition the numerous monuments in that public edifice was very large. He agreed that public monuments, placed in the great national cathedral by addresses to the throne, to commemorate splendid actions of great characters, ought to be open to the public at large, or the very object of erecting them would be defeated. At the same time it was not proper, because such monuments were placed in St. Paul's, that the Dean and Chapter should be burdened with the expense of keeping them in repair. However, he was not bound to be responsible for the manner in which the Dean and Chapter exercised their duty, and certainly he was very little inclined to take upon himself any such responsibility with relation to the present subject. The Dean and Chapter of Westminster were bound to maintain Westminster Abbey in a proper state; but he was very far from asserting that they gave the necessary facilities to the public in viewing either the edifice or its monuments (hear, hear). He was aware that reiterated and well-founded complaints had been made in every direction upon this subject, and he was compelled to say, that when he had visited the cathedrals with a view of looking at the national monuments, the exhibition had been conducted very carelessly, and in a manner that reflected no honour upon those who had the control of the arrangements. The whole system, at both cathedrals, was conducted in a manner that he by no means approved of; but he did not see that he had any power to require the Deans and Chapters of St. Paul's and Westminster, either to reduce their fees, or to alter their management.

Mr. *Hume* was happy to hear the *rt. hon. gent.* so unequivocally condemn a system which in itself was both mean and rapacious, injuring the country in the eyes of foreigners, and sinking the character of the clergy of the cathedrals in the estimation of the people. The fact was, that the expenses of keeping the monuments in a good condition was palpably a pretence, and the tax levied upon the public under this pretence, was completely at the discretion of the Deans and Chapters (hear, hear).

Sir *John Sebright* stated, that whenever he had conducted foreigners through these splendid buildings, in order to shew them the monuments so honourable to the country, he was thoroughly ashamed at the principle of pecuniary exaction established by the Deans and Chapters, and he was equally mortified at the whole system upon which these national exhibitions were conducted.

### *Official Residences.*

MONDAY, MARCH 28.—Mr. *Herries*, in the committee of supply, moved that 40,000*l.* be granted to his Majesty to defray the expenses of workmen employed in the various public buildings for 1825.

Sir *M. W. Ridley* suggested that it would be highly proper, as well as convenient for the public service, to provide official dwellings for

the principal officers of Government, attached to their respective offices.

The *Chancellor of the Exchequer* said, that it had not been usual to make the personal accommodation of the members of the Government in respect to houses, any charge upon the public; but if it were just in principle to do so, that custom could be no good argument why the system should not be changed. Indeed, it might be, that a due regard for the dignity and character of the administration of the country in some cases required the adoption of such a change. Parliament would be bound, however, in assigning residences at the public expense to particular persons and offices, not to push the principle upon which they were to be so assigned too far. With regard to some individuals, such an assignment must be in some degree considered as conferring upon them additional incomes; but he thought that the general feeling of that house on these subjects, whatever it might be, would not be divided upon more considerations of an ill-judged or excessive economy.

Mr. *Lockhart* objected to any propositions of the kind which had been adverted to by the *hon. bart.* and the *rt. hon. gent.* If these new and splendid houses were to be built for the great officers of Government, there must follow, he presumed, as matter of course, additional incomes, and sumptuous furniture. The general effect of such a system would only be to render the officers themselves less accessible than they at present were, and to increase the public burdens.

Mr. *E. J. Littleton* thought that many individuals, who were high in the public service, ought to be lodged at the public expense. Among others he might particularly instance a *rt. hon. friend* of his (Mr. *Canning*), whom he regretted not to see in his place, and he was obliged to receive more visitors, and to entertain more company, than any other minister—namely, the foreign ministers, ambassadors, and functionaries; and a vast number of other persons. A great proportion of the more important offices in the Government were quite underpaid; and he thought it would be more beneficial to the public service that the persons filling them should be paid higher salaries than they at present received, than that they should be provided with houses at the public expense. No period could be better than the present for establishing some such system.

Mr. *Baring* stated that he was very much in favour of building houses for the principal officers of state, not exactly for the convenience of the individuals, but for the benefit of the public. He believed the expense to the public would not be greater than it was at present.

Mr. *Hume* objected to the way in which buildings, the property of the public, were at present disposed of. He knew of one instance in which a public officer, whose salary was not more than 120*l.* a-year, was lodged in a house of the value of 2,000*l.* or 2,500*l.* per annum. He protested against spending more in buildings, especially in providing houses for ministers. He never found them unwilling to retain their places because they had not houses provided at the public expense (a laugh); and though they had not yet enjoyed that convenience, the affairs of the public had gone on just as well as if they had been more magnificently lodged. He did not wish that any public build-



ing should be erected for any public officers, and if they did not like to continue in office because they had to come from their private residences to their places of business, why let them resign.

Mr. T. Wilson said there were many cases in which it was necessary to spend a shilling to save a pound. It was so in the present instance. No man could so well attend to his business who was not on the spot where it was carried on; and he therefore thought that money expended in such a way would be well laid out, even with a view to public economy.

The resolution was then agreed to.

### *Custom-house.*

Mr. James Martin requested to be informed what was the nature of the defect that had displayed itself in the structure of the Custom-house, and by whom the expenses of repairing it were to be defrayed?

The Chancellor of the Exchequer replied, that in the first place the expense of these repairs must be paid for out of the public funds which came into that department of the revenue. What the amount would be, it was impossible at present to say. It was very true that a serious defect had manifested itself in the building in question, which had been erected at a great expense, under the management of an architect who was not, unfortunately, under the control which had been subsequently imposed on all architects employed on public edifices—namely, that of the Board of Works; a very injudicious exemption, of which this case sufficiently evinced the mischievous consequences. The individual he spoke of was then the ordinary surveyor of the customs only, and he employed a contractor, by whom, in effect, the custom-house was built. The specifications usual in such cases were regularly drawn between them, and when the building was finished the architect certified that the work done had been according to those specifications. Very lately, a particular part of the building—a most important one, called the long room—had given way; and it was but too true that a most scandalous fraud was found to have been practised in that part of the structure. For instance, that part of the edifice was built on piles; and according to the terms of the specification under which the builder had agreed to act, there were to be under one pier of an arch nine regularly distributed piles. This arch was precisely the one which had since given way. And it now appeared that there were only four piles and a half, instead of nine, and even these were not put in any regular line or distribution. The piles themselves, too, instead of being round solid pieces of timber, like masts of ships (which were most preferred in this kind of building), proved to be rough trunks of trees, with the branches merely lopped off. All this was undoubtedly very disgraceful to the individual who had executed the contract. Every means had been taken to recover to the public, as nearly as possible, the money which would be required for making good this defect. The party who undertook the contract to the architect was a person of some property, and the requisite measures had been resorted to, to secure to the public an adequate compensation from him. Whether there had ever subsisted any sort of agreement between the architect and the contractor or

builder, that could bring them within the operation of the law, he was unable to say; but the question was now under consideration.

Mr. Ald. Wood, having the pleasure of knowing Mr. Peto, thought that charges of this kind, coming from so high a quarter in that house, ought not to be hazarded until they could be brought forward, if at all, in some tangible shape (hear, hear); the accusation ought to be distinctly stated.

The Chancellor of the Exchequer said that the question came to this—whether, the work not having been performed in the way mentioned in the specification, the architect had not certified that it was really so performed? A question of so serious a nature rendered much investigation necessary.

This subject was again mentioned on April 15th, and Mr. Herries promised that no time should be lost in bringing the business to a decision.

### *Thames Quay.*

TUESDAY, MARCH 15.—Col. Trench moved for leave to bring in a bill to build a quay and terrace on the north bank of the Thames.

Mr. Calcraft was sorry to show any disposition to oppose a project which many persons considered an improvement; but he thought that it could not be carried into effect without material injury to the property of a large number of individuals. He interfered in this stage of the bill, because the standing orders of the house had not been complied with. His objections, in point of form, were first, that a sufficient schedule, descriptive of the alteration proposed, had not been deposited in the proper offices; in the next place, the list furnished of assents and dissents among persons interested, was not complete. He held a petition in his hand from the Duke of Norfolk, complaining of the insufficiency of this list. The petitioner was a very large possessor on the line proposed to be cut up and altered; and yet no application whatever had been made, either to him or his tenants, upon the subject. The injury which this quay, if ever erected, must produce to the water-side property, was obvious. Independent of the balustrade, the foot-path was to be 23 feet above the level of the carriage way in Arundel-street or Surrey-street; so that the inhabitants of those streets would lose the light as high as their first floor windows. But his chief reason for opposing the bill at present was, the total impossibility which he saw of its ever succeeding. The cost alone put it out of all question. One prospectus had stated the probable expense at 400,000*l*. Another afterwards raised it to 600,000*l*. A third said something about the Chancellor of the Exchequer giving 200,000*l*. towards the plan (hear, hear). But it was not five times 600,000*l*. nor much less than 5,000,000*l*. in his opinion, that would complete it.

Mr. Hobhouse opposed the measure upon a petition from two individuals who held nearly half the Thames bank between them, from Craven-Street to Temple-bar. The mud-dock contemplated would be a great nuisance, and quite certain to create *miasmata*. He opposed the bill in the present stage, to save the enormous expense of going into a committee above-stairs to no purpose.

Col. Trench said that the conductors of the scheme had acted advisedly, in not making the

*discovery.* Four years ago he presented a petition to the house from a Mr. Lester, who at the same time showed him a book which he had published in 1782, pointing out the very same process of road-making that Mr. M'Adam now claimed as his own; and Mr. Patterson, a surveyor in Forfar, also claimed the merit of having discovered the same process, long before Mr. M'Adam's plan was heard of. Under these circumstances, he thought there was no claim on the ground of originality. He also objected to this claim without having the items of Mr. M'Adam's expenses set forth. From a return which was on the table, he found that Mr. M'Adam was employed on 79 trusts in 28 different counties; and upon that fact he contended that the counties benefited by Mr. M'Adam's system should remunerate him for it, and not the community at large. It was not right that the people residing in Norfolk, in Ireland, or Scotland, should pay for making a fine road from Carlton palace to the Regent's Park (hear). It was said in support of this grant, that Mr. M'Adam had received nothing from the trustees of squares and bridges, and of parishes, to which he had repeatedly given his advice. If that were so, whose fault was it? Certainly not that of the public; and it was therefore unfair to call upon the public to furnish out of its generosity those funds which ought to have been furnished by the justice of those to whom Mr. M'Adam had given his exertions.

Sir T. Baring spoke in support of the grant, and contended, that the house, in passing it, would not be establishing any new precedent, inasmuch as there had been upwards of 20 similar grants for similar public benefits in the last 20 years.

Mr. H. Sumner acknowledged the great merit of Mr. M'Adam's system, but could not look upon it as a new invention, as the roads in his neighbourhood had been made upon it for the last 50 years. He thought that the greatest national benefits might be compensated at a rate cheaper than the current expense which the services of Mr. M'Adam's family had cost to the country. In five years Mr. M'Adam and his four sons had received from different public trusts no less than 41,000*l.*

Mr. Maberley referred to the evidence before the committee to justify Mr. M'Adam. He had not thrust himself upon the public. Lord Chichester had testified to the Committee that the Post-office had sought Mr. M'Adam, and his Lordship admitted that in treating with him he had concurred in the propriety of Mr. M'Adam trusting to a public reward. If the hon. member had known of the plan of Mr. M'Adam so long ago, so much the worse for his case; he ought not to have allowed the roads of Surrey to remain as they were, the worst about the metropolis.

Mr. F. Palmer was a member of the committee above stairs, and stated the extreme difference of opinion as to the claims of Mr. M'Adam. He thought that there was too much indifference shown to the public money and too much weight given to the merit of Mr. M'Adam.

Mr. Hart Davis said that many of the roads repaired by Mr. M'Adam had fallen under his own observation, and he could assure the house, that several, which had been the worst roads in the West of England, had, by Mr. M'Adam's exertions, been converted into the best possible state.

Sir E. Knatchbull said that could he feel as-

sured that the present sum was to be the liquidation of Mr. M'Adam's claims upon the public, he should support the grant; but Mr. M'Adam had already received 4,000*l.*; the house was now called upon to vote a further sum of 2,000*l.*, and he believed that they would, ere long, be applied to for further remuneration.

Sir R. Wilson was able to bear unequivocal testimony to the services which Mr. M'Adam had rendered to the public. He did not, however, estimate those services by any quantity of road that Mr. M'Adam had laid down, or even by any quantity that had been laid down by others upon his principles, but he appreciated his merits in introducing a system of improvement, and in originating a series of observations and experiments which had almost brought our roads to an equality with the old Roman roads. As to the objection that he was not the inventor of the present system of road-making, he had as clear a right to the merits of invention, as could, from the nature of the case, be established. Individuals had come from all parts of the empire to receive instructions from Mr. M'Adam, and to witness the effects of his system; these persons had diffused the benefits of the improvements in every direction, and there were very few interests in the country that did not derive sensible advantage from the ameliorated state of the roads, arising from Mr. M'Adam's ingenuity. He should, therefore, feel it his duty, upon every principle of public utility and private justice, to support the grant.

The Committee divided.—For the grant, 83 —Against it, 27—Majority in favour of the grant, 56.

## FOREIGN RELATIONS.

### *Diplomatic Service.*

MONDAY, MARCH 21.—On the motion (in a committee of supply) that 160,000*l.* be granted to his Majesty to defray the expense of civil contingencies,

Mr. Hume adverted to the large amount of our diplomatic expenditure, of which part came under this grant. That expenditure for the present year amounted to 300,000*l.* In spite of the suggestions of the Finance Committee, in 1816, that this expenditure should be reduced, we had expended, in the last seven years, 2,060,000*l.* in the expenses of our ambassadors alone. He complained of the manner in which the diplomatic accounts were intermingled with those of other departments. For instance, in one class of the civil list, 226,000*l.* was annually charged for the expenses of our ambassadors. He was aware that in one year 11,000*l.*, and in another 7,000*l.* or 8,000*l.* of this sum had been returned; but the average amount was 226,000*l.* Now, in addition to this sum, bills were annually sent in from each of our residents, which had reached, he must say, an unwarrantable amount. In 1792, they were but 5,900*l.*; in 1818, they had reached 37,000*l.*; but in the last year they amounted to the extraordinary sum of 80,000*l.* So that our diplomatic expenditure at present amounted to somewhere about 312,000*l.*; and this exclusively of the 60,000*l.* now wanted for the establishments of our different consuls in South America. He contended that the rt. hon. Sec. (Canning) would consult the interests of the public by withdrawing our ministers from the petty states of Germany, and applying their allowances to defray the expenses of our new

diplomatic relations in South America. He complained of the great expence occasioned by our embassies to the various great courts of Europe, and especially to that of France, and concluded by expressing a hope that the rt. hon. Sec. would do every thing in his power to lessen them.

Mr. *Canning* said, that the House of Commons in 1816 had minutely examined the whole diplomatic branch of the public expenditure, and laid down a scale for its future arrangement. He had guided himself by the scale then laid down in all his arrangements, and had endeavoured, as much as possible, to make such retrenchments therein as were consistent with the public exigencies. With reference to the different public missions to South America, he thought that the scale of allowance was regulated rather lower than above the fair principle of remuneration. It was clear that if this country were disposed to encourage a close connexion with these new governments, they must be prepared to meet the necessary burdens of the new expenditure arising out of such a connexion. But he was surprised at the hon. gent.'s proposal to defray this expence by a retrenchment in the diplomatic missions among the smaller states of Europe. In many of these missions to the smaller powers, a larger question was involved than the mere expence of diplomacy. The good-will of such powers was well purchased by the comparatively trifling expence of the diplomatic establishments; and he could assure the hon. gent., that in the three instances in which he had reduced the expence of these missions, it had cost the British government great pains to convince the courts where such reductions took effect, that it was not intended to lower them in the estimation either of great Britain, or the larger states in Europe. With respect to what had fallen from the hon. gent. on the subject of the Paris mission, he was confident that the late ambassador would have been unable, without the aid of his private property, to have sustained the essential dignity of his diplomatic station out of the public allowances; and as to the present ambassador, with whose private affairs he was better acquainted, he could assure the hon. gent., that that noble lord (Granville) would feel himself perfectly satisfied, if in addition to his allowance of 11,000*l.*, he had not one-half as much more, perhaps entirely as much, to supply from his private fortune, in balancing his expenditure. He agreed in the propriety of selecting men of independent fortunes to fill such high offices; but he would add, that they ought not by undue reductions to make them unfit for others who might be called, without such private advantages, into the service of their country (hear, hear). He repeated, that he had endeavoured to regulate this department with reference to the scale agreed upon in 1816; but he must say, that he did not think the mere mention of particular sums in its expenditure, with a circumscribed reference to particular and evanescent circumstances, the proper way in which the country ought to estimate such matters, either with justice to the individuals, or with reference to the honour and utility of the public service.

Mr. *Hume* replied, that it was not for him to say, for he had not the necessary information, which of the German embassies ought to be reduced, or why they should be called upon to pay so many thousands a year for an embassy to the Two Sicilies, where a plain consul would

answer just as well. But he begged to ask the rt. hon. gent. whether Holland, where the British embassy cost 14,000*l.* a-year, and where a minister with 6,000*l.* could do the business, did not wish this country to reduce the rank of the embassy, and complained that she could not maintain one upon the same diplomatic scale to represent her in England; and he would further ask, why such proposal had been declined by the British government?

### *British Claimants on Spain.*

Mr. *Hume* (in the same committee) alluded to the item of 8,247*l.* for the expences of the Spanish commission for investigating the claims of British merchants. Where were those commissioners—who were they—and what had they done?

Mr. *Canning* said, that a few years ago many British ship-owners had incurred heavy losses by captures made upon them by Spanish subjects, contrary to the law of nations. They naturally solicited their own government to obtain redress, and various applications had, in consequence, been made to the then Spanish authorities. After this course had been duly taken, and no proper redress afforded, the government issued an order to the British Commander-in-Chief on the West-India station, to make reprisals upon the commerce of the Spanish islands to the amount of the British claimants; but it was thought reasonable that when this order was issued, and before it was carried into execution, that the government of Spain should be informed of the fact, before summary measures of redress were resorted to. This led to a further negotiation, in the first stage of which the Spanish government conceded an acknowledgment of the principle of the British claims, and abandoned that denial of justice which was their previous ground. The matter was then referred, upon the admission of the principle, to a convention which was to inquire into the specific extent of the losses, for the purpose of their eventual liquidation. During the preliminary proceedings, the Spanish government underwent a change, and the King of Spain upon his restoration annulled all the acts of the preceding government; but this convention was subsequently recognized, which, indeed, was the only act of his predecessors which his Spanish Majesty had acknowledged. The convention being thus resumed, the commissioners went to work but slowly, from the peculiar circumstances under which they had to act. Months were lost before the King of Spain had appointed new commissioners, and even during the last year the Spanish commissioners had been changed no less than three times. Notwithstanding these impediments, he was glad to state, that of the claims of British merchants, estimated at upwards of 400,000*l.* nearly 200,000*l.* had been admitted by the Spanish authorities—he wished he could add, paid (a laugh). That the whole of the claims would be acknowledged he had no doubt, and he did not absolutely despair of their ultimate adjustment. As to the expences of the commissioners, they would not be ultimately defrayed by the public, but by a *per centage* upon the amount of claims, which were the object of the investigation.

This subject was again alluded to on Tuesday, June 28, but no further information was elicited.

*Military Occupation of Spain.*

FRIDAY, JULY 1.—Mr. Brougham rose for the purpose of proposing a question to the rt. hon. Secretary (Canning) respecting the military occupation of Spain by France. He had hitherto abstained from asking a single question on this subject, fearful that an open discussion in that house would be productive of mischief; fearful, he might fairly add, the observations which would necessarily be made in the course of such a discussion would not only irritate the two houses, but would also have the effect of making worse the situations of those gallant and illustrious characters who were now imprisoned martyrs in the cause of liberty—men who had staked their all, and who had lost all in that glorious cause, but their honour (hear, hear), which had come out brightened and purified from the ordeal through which it had passed (hear, hear). But now, at the close of the Session, when nothing violent or harsh could be expected to be said, he thought he might without injury venture to propose one question. It had been long since stated, that when Ferdinand was fully restored to power, the French troops were to be withdrawn from Spain. That time had arrived, and still the French troops remained; my more, they had fortified Cadiz; in addition to which, they held St. Sebastian and several other places. Were they then to remain in Spain as long as the King of France, or as Ferdinand himself wished for their presence (hear, hear)? If such was the wish of these two powers, it became the duty of England to interfere and prevent it (hear, hear). It became our duty, because it was contrary to sound policy; it was contrary to the balance of power, that we should allow it. In a short time, new reasons might be urged, and Ferdinand might say, that the French troops should remain in his territories so long as Spain was at war with her South American Colonies (hear, hear); and then they would be able to understand that two Swiss regiments were kept at Madrid, and the French troops in the country, in order to allow Spain to send out her own troops to subdue the liberties of South America (hear, hear). The present policy of France was most dangerous—it had a tendency to destroy the balance of power in Europe; and what would be our situation, in the event of another war, with Ireland exposed to the iron coast of Spain, guarded, not by Spaniards, of whom, perhaps, we should think less, but by Frenchmen (hear, hear)? He would, therefore, beg leave to ask the rt. hon. gent. whether there was any reason to hope that the French troops would shortly evacuate the Spanish territory?

Mr. Canning said, that Ministers had received from the French Government, from time to time, such assurances as satisfied his mind completely that there existed no intention to occupy the fortresses of Spain, after the French army should have been withdrawn. It now appeared that the additional fortifications, about which so much had been said, reduced themselves to common repairs. He was able to assert, most distinctly, that not one sou of French money had been expended upon those fortifications, and not one sou, he was confident, of the money of Spain beyond what was necessary to keep them up. Perhaps it might be satisfactory to state further, that in the month of December, a distinct application had been made to the French Government for a disclosure of its views with regard to Spain. The answer was,

that it was intended to reduce the Army of Occupation to 22,000 men, continuing an extra corps on foot in the country until the month of April. He had every reason to believe that that extra corps had either been, or was in a course of being withdrawn. With regard to the period when it might be expected that the remaining 22,000 men would be removed from the Spanish territory, he was not prepared to give any opinion, and he doubted if even the French Government could give a satisfactory answer to the question; he, nevertheless, believed that the learned gent. could not be more desirous that the French troops should evacuate Spain, than the French authorities were themselves anxious to commence that operation. They hoped to see all the objects of that occupation fulfilled, and that they might be accomplished, they still retained possession of the country. It certainly appeared that much that had been anticipated on this side of the water, as to the consequences of the presence of the armies of France, had not been realised. He begged to repeat, honestly, as an individual, he felt no degree of apprehension, alarm, or jealousy on the subject. He was satisfied in his conscience that there was a *bona fide* intention on the part of the French Government to evacuate Spain, as speedily as circumstances would permit.

Lord J. Russell could not refrain from noticing the melancholy spectacle presented by the incarceration of many friends of liberty in Italy, where men of high education, refined habits, and lofty rank, accustomed to all the delicacies of life, were confined in dungeons, or performed the drudgery of galley slaves (hear, hear). He did not wish to say any thing disrespectful of the Government of Austria, but he could not help observing that the minds of all men, in all countries, would be much conciliated towards that Government by a relaxation of its severity. At the present moment those harsh measures, which seemed excusable a few years ago, were not required, and he trusted that they would be abandoned. Such a course would tend to augment incalculably the influence of Austria in Italy.

*South America.*

THURSDAY, MAY 16.—Mr. Canning laid upon the table a copy of the treaty of amity, commerce, and navigation, between the kingdom of Great Britain and the United Provinces of the Rio de la Plata.

FRIDAY, JULY 1.—Mr. Baring observed, that a person of great distinction, the Envoy from Buenos Ayres to this country, had not yet been presented to his Majesty; he had heard that this circumstance was attributable to the representations of certain European Powers, and that they had also induced the British Government to consent to a limited recognition of some of the independent States of South America, instead of the recognition previously contemplated. He wished to learn what was the fact, and also to be informed, whether it was by accident only that the Envoy from Buenos Ayres had not been introduced at Court? It was but justice to state, that he made this inquiry without any communication whatever with the distinguished individual to whom it related. He wished also to ask another question, referring to a gallant and meritorious portion of the British subjects—he meant those

officers who had been taken into the service of foreign countries. The act which placed these individuals in a most extraordinary situation, was still in force. In making this observation, he did not mean to call in question the policy of the bill to which he had referred; nor would he inquire whether it had been called for by circumstances at the time when it was passed. The law to which he referred imposed a degradation—imposed a severe punishment on persons who might contravene its provisions; and yet there was not a gent. who heard him, who must not view with the highest respect the conduct of those individuals, and who must not esteem them, on account of the noble motives by which they were actuated. The state of things which had given rise to it having passed away—England having recognised the independence of several of the South American states—the law should be altered. Subjects of this country had, in periods of peace, held high commands in the French service. We had supplied admirals to Russia, and officers of various descriptions to Austria, Spain, and Portugal. It was of great importance to the military power of this country, that English officers should, in time of peace, be enabled to keep up their military knowledge by entering into the service of foreign states. France, at the present moment, was pursuing this system; she was pushing her military officers into every possible service. They were employed in Greece, in Turkey, in every situation where their abilities were likely to be matured. He submitted these few observations for the consideration of Government. If nothing were done, he would in the next session submit a motion on this subject.

TUESDAY, JULY 5.—Mr. Canning rose to answer the questions put on a preceding evening by the member for Taunton. The hon. member (Mr. Baring) had remarked, that an individual of great respectability, accredited to this country by the state of Buenos Ayres, had not been presented at the last levee; and, from that fact, the hon. member inferred that some interference had been used by foreign powers. He (Mr. Canning) desired to say that no attempt had ever been made on the part of any foreign state to regulate, in the slightest degree, the conduct of this country towards any of the states of South America; nor, if such an attempt had been made, could there have been the least chance of its being successful. The fact was that the individual in question, although he appeared in the character of Envoy Extraordinary and Minister Plenipotentiary, had no regular credentials. The state of Buenos Ayres had sent this gentleman a paper appointing him Minister Plenipotentiary to this country, and also to France; and he thought that England was not stickling too much upon ceremony in saying that she must desire to have an entire minister to herself. It had been suggested in some quarters, that these new states might well be placed, in some points, upon a more free footing than the older ones. In this view, he by no means agreed. He thought it sufficient that they were fully and regularly brought into the community of nations; and, as far as his advice went, the same full observance of all forms and arrangements should be required from them as from the oldest, best secured, or most despotic governments existing. The paper which this gentleman produced might be sufficient

between his government and himself; but it was not sufficient as between his government and this country. There was another point, upon which he desired to say a few words. It happened, that at an earlier period of the present year, the state of Buenos Ayres had appointed a British subject, a gentleman who was a partner in a considerable mercantile house in this country, its Consul-General for England. In that capacity, the individual alluded to had called upon him, and, tendering his commission, had proposed to enter with him into the discussion of highly important questions. He had refused to listen to that gentleman, and even to see him a second time. He had taken that course, in the first place, because the appointment in question had not been regular; but he had felt another objection, and one of still greater importance. No man was ignorant of the speculations that were taking place in this country with regard to the continent of South America; and whoever considered what had been the fluctuation of various projects within the last year in this country, would probably see that he had only taken a proper precaution, when he had expressed a desire that the states of America, generally, would not appoint British merchants in this country to be their consuls. He had written to his Majesty's Charge d'Affaires at Buenos Ayres, and to the resident ministers at other places, requesting, through them, that such nominations might not take place in future. He had, moreover, written to the officers of this country appointed in America, generally, desiring that they would not engage in commercial transactions, under peril of removal from office.

## CONSTITUTION.

*Elective Franchise.*

MONDAY, JUNE 30.—Lord Nugent presented a petition from the resident burgesses and others of West-Loose, praying inquiry into the right of voting in the borough, and complaining of infringement on the franchises as established by usage immemorial. Usage of this character need not, as he understood, be proved to have been unbroken: it would be enough to show that it had once existed: and he believed that unless a charter provided to the contrary, the common law right of voting was in every householder. Such was the opinion expressed in the time of James I. by Glanville, by Lord Coke, and all the great authorities of the time. The petition he held in his hand stated that, in the charter of West-Loose, there was nothing to abridge the rights of the resident inhabitants, and for centuries the right of election had been exercised by such residents alone—that afterwards by usurpation and collusion, non-resident burgesses had exercised a right of voting. Parliament was petitioned on this ground against the return of a member in 1823, and a committee of the house declared his return illegal; found that the right to elect was in the corporators; but did not decide who had a right to be corporators or how they should be chosen. The petitioners after this made many applications to the Court of King's Bench, and among others an application for a mandamus to be admitted and sworn into the corporation, according to the ancient usage of the borough and the clear meaning of the charter of Elizabeth; but the Court again refused their application, on the ground of want

*Military Occupation of Spain.*

FRIDAY, JULY 1.—Mr. Brougham rose for the purpose of proposing a question to the rt. hon. Secretary (Canning) respecting the military occupation of Spain by France. He had hitherto abstained from asking a single question on this subject, fearful that an open discussion in that house would be productive of mischief, fearful, he might fairly add, the observations which would necessarily be made in the course of such a discussion would not only irritate the two houses, but would also have the effect of making worse the situations of those gallant and illustrious characters who were now imprisoned martyrs in the cause of liberty—men who had staked their all, and who had lost all in that glorious cause, but their honour (hear, hear), which had come out brightened and purified from the ordeal through which it had passed (hear, hear). But now, at the close of the Session, when nothing violent or harsh could be expected to be said, he thought he might without injury venture to propose one question. It had been long since stated, that when Ferdinand was fully restored to power, the French troops were to be withdrawn from Spain. That time had arrived, and still the French troops remained; may more, they had fortified Cadiz; in addition to which, they held St. Sebastian and several other places. Were they then to remain in Spain as long as the King of France, or as Ferdinand himself wished for their presence (hear, hear)? If such was the wish of these two powers, it became the duty of England to interfere and prevent it (hear, hear). It became our duty, because it was contrary to sound policy; it was contrary to the balance of power, that we should allow it. In a short time, new reasons might be urged, and Ferdinand might say, that the French troops should remain in his territories so long as Spain was at war with her South American Colonies (hear, hear); and then they would be able to understand that two Swiss regiments were kept at Madrid, and the French troops in the country, in order to allow Spain to send out her own troops to subdue the liberties of South America (hear, hear). The present policy of France was most dangerous—it had a tendency to destroy the balance of power in Europe; and what would be our situation, in the event of another war, with Ireland exposed to the iron coast of Spain, guarded, not by Spaniards, of whom, perhaps, we should think less, but by Frenchmen (hear, hear)? He would, therefore, beg leave to ask the rt. hon. gent. whether there was any reason to hope that the French troops would shortly evacuate the Spanish territory?

Mr. Canning said, that Ministers had received from the French Government, from time to time, such assurances as satisfied his mind completely that there existed no intention to occupy the fortresses of Spain, after the French army should have been withdrawn. It now appeared that the additional fortifications, about which so much had been said, reduced themselves to common repairs. He was able to assert, most distinctly, that not one sou of French money had been expended upon those fortifications, and not one sou, he was confident, of the money of Spain beyond what was necessary to keep them up. Perhaps it might be satisfactory to state further, that in the month of December, a distinct application had been made to the French Government for a disclosure of its views with regard to Spain. The answer was,

that it was intended to reduce the Army of Occupation to 22,000 men, continuing an extra corps on foot in the country until the month of April. He had every reason to believe that that extra corps had either been, or was in a course of being withdrawn. With regard to the period when it might be expected that the remaining 22,000 men would be removed from the Spanish territory, he was not prepared to give any opinion, and he doubted if even the French Government could give a satisfactory answer to the question; he, nevertheless, believed that the learned gent. could not be more desirous that the French troops should evacuate Spain, than the French authorities were themselves anxious to commence that operation. They hoped to see all the objects of that occupation fulfilled, and that they might be accomplished, they still retained possession of the country. It certainly appeared that much that had been anticipated on this side of the water, as to the consequences of the presence of the armies of France, had not been realised. He begged to repeat, honestly, as an individual, he felt no degree of apprehension, alarm, or jealousy on the subject. He was satisfied in his conscience that there was a *bona fide* intention on the part of the French Government to evacuate Spain, as speedily as circumstances would permit.

Lord J. Russell could not refrain from noticing the melancholy spectacle presented by the incarceration of many friends of liberty in Italy, where men of high education, refined habits, and lofty rank, accustomed to all the delicacies of life, were confined in dungeons, or performed the drudgery of galley slaves (hear, hear). He did not wish to say any thing disrespectful of the Government of Austria, but he could not help observing that the minds of all men, in all countries, would be much conciliated towards that Government by a relaxation of its severity. At the present moment those harsh measures, which seemed excusable a few years ago, were not required, and he trusted that they would be abandoned. Such a course would tend to augment incalculably the influence of Austria in Italy.

*South America.*

THURSDAY, MAY 16.—Mr. Canning laid upon the table a copy of the treaty of amity, commerce, and navigation, between the kingdom of Great Britain and the United Provinces of the Rio de la Plata.

FRIDAY, JULY 1.—Mr. Baring observed, that a person of great distinction, the Envoy from Buenos Ayres to this country, had not yet been presented to his Majesty; he had heard that this circumstance was attributable to the representations of certain European Powers, and that they had also induced the British Government to consent to a limited recognition of some of the independent States of South America, instead of the recognition previously contemplated. He wished to learn what was the fact, and also to be informed, whether it was by accident only that the Envoy from Buenos Ayres had not been introduced at Court? It was but justice to state, that he made this inquiry without any communication whatever with the distinguished individual to whom it related. He wished also to ask another question, referring to a gallant and meritorious portion of the British subjects—he meant those

officers who had been taken into the service of foreign countries. The act which placed these individuals in a most extraordinary situation, was still in force. In making this observation, he did not mean to call in question the policy of the bill to which he had referred; nor would he inquire whether it had been called for by circumstances at the time when it was passed. The law to which he referred imposed a degradation—imposed a severe punishment on persons who might contravene its provisions; and yet there was not a gent. who heard him, who must not view with the highest respect the conduct of those individuals, and who must not esteem them, on account of the noble motives by which they were actuated. The state of things which had given rise to it having passed away—England having recognised the independence of several of the South American states—the law should be altered. Subjects of this country had, in periods of peace, held high commands in the French service. We had supplied admirals to Russia, and officers of various descriptions to Austria, Spain, and Portugal. It was of great importance to the military power of this country, that English officers should, in time of peace, be enabled to keep up their military knowledge by entering into the service of foreign states. France, at the present moment, was pursuing this system; she was pushing her military officers into every possible service. They were employed in Greece, in Turkey, in every situation where their abilities were likely to be matured. He submitted these few observations for the consideration of Government. If nothing were done, he would in the next session submit a motion on this subject.

TUESDAY, JULY 5.—Mr. Canning rose to answer the questions put on a preceding evening by the member for Taunton. The hon. member (Mr. Baring) had remarked, that an individual of great respectability, accredited to this country by the state of Buenos Ayres, had not been presented at the last levee; and, from that fact, the hon. member inferred that some interference had been used by foreign powers. He (Mr. Canning) desired to say that no attempt had ever been made on the part of any foreign state to regulate, in the slightest degree, the conduct of this country towards any of the states of South America; nor, if such an attempt had been made, could there have been the least chance of its being successful. The fact was that the individual in question, although he appeared in the character of Envoy Extraordinary and Minister Plenipotentiary, had no regular credentials. The state of Buenos Ayres had sent this gentleman a paper appointing him Minister Plenipotentiary to this country, and also to France; and he thought that England was not sticking too much upon ceremony in saying that she must desire to have an entire minister to herself. It had been suggested in some quarters, that these new states might well be placed, in some points, upon a more free footing than the older ones. In this view, he by no means agreed. He thought it sufficient that they were fully and regularly brought into the community of nations; and, as far as his advice went, the same full observance of all forms and arrangements should be required from them as from the oldest, best secured, or most despotic governments existing. The paper which this gentleman produced might be sufficient

between his government and himself; but it was not sufficient as between his government and this country. There was another point, upon which he desired to say a few words. It happened, that at an earlier period of the present year, the state of Buenos Ayres had appointed a British subject, a gentleman who was a partner in a considerable mercantile house in this country, its Consul-General for England. In that capacity, the individual alluded to had called upon him, and, tendering his commission, had proposed to enter with him into the discussion of highly important questions. He had refused to listen to that gentleman, and even to see him a second time. He had taken that course, in the first place, because the appointment in question had not been regular; but he had felt another objection, and one of still greater importance. No man was ignorant of the speculations that were taking place in this country with regard to the continent of South America; and whoever considered what had been the fluctuation of various projects within the last year in this country, would probably see that he had only taken a proper precaution, when he had expressed a desire that the states of America, generally, would not appoint British merchants in this country to be their consuls. He had written to his Majesty's Charge d'Affaires at Buenos Ayres, and to the resident ministers at other places, requesting, through them, that such nominations might not take place in future. He had, moreover, written to the officers of this country appointed in America, generally, desiring that they would not engage in commercial transactions, under peril of removal from office.

## CONSTITUTION.

*Elective Franchise.*

MONDAY, JUNE 20.—Lord Nugent presented a petition from the resident burgesses and others of West-Loose, praying inquiry into the right of voting in the borough, and complaining of infringement on the franchises as established by usage immemorial. Usage of this character need not, as he understood, be proved to have been unbroken: it would be enough to show that it had once existed; and he believed that unless a charter provided to the contrary, the common law right of voting was in every householder. Such was the opinion expressed in the time of James I. by Glanville, by Lord Coke, and all the great authorities of the time. The petition he held in his hand stated that, in the charter of West-Loose, there was nothing to abridge the rights of the resident inhabitants, and for centuries the right of election had been exercised by such residents alone—that afterwards by usurpation and collusion, non-resident burgesses had exercised a right of voting. Parliament was petitioned on this ground against the return of a member in 1825, and a committee of the house declared his return illegal; found that the right to elect was in the corporators; but did not decide who had a right to be corporators or how they should be chosen. The petitioners after this made many applications to the Court of King's Bench, and among others an application for a mandamus to be admitted and sworn into the corporation, according to the ancient usage of the borough and the clear meaning of the charter of Elizabeth; but the Court again refused their application, on the ground of want

of jurisdiction and the general discussion of these subjects which would follow the granting of such an application (hear, hear).—The noble lord then contended that the petition, in effect, made out three things: first, the charter gave the right of voting to the resident house-holders; secondly, that the records proved the returns to have been made by them for a long period, under the titles of *burgesses* or *resiant burgesses*, or *probi homines* or *communitas*, or some name which, taken with the numbers, showed that there was no difference between the *resiant burgesses* and the free *burgesses*. Thirdly, that the right had been abridged by collusion and injustice, and finally altogether usurped by the non-resident *burgesses*, whose votes were not admissible by the charter. He had several petitions of the same nature to bring up, and early in the next session he proposed to bring the whole question forward in a manner suitable to the importance of the occasion.

Mr. D. Gilbert thought of all tribunals this house the worst to try such a question. The courts of law were open, and a proceeding was to be brought to a hearing in the Court of King's Bench to-morrow, on the matters recited in that very petition.

Lord John Russell said, that, in his opinion, the representative system would not be at all improved, if the rights of voting were extended to all householders. Such an alteration would be merely changing the elections from a select body to persons almost paupers. But the question now to be considered was, whether it was not the duty of that house to give to persons the means of proving their right to vote at elections; for, by the present state of the laws, persons were often deprived of such opportunities. The Court of King's Bench could not be said, in any general sense, to afford to constituents the means of proving their rights to vote. In the last application to the Court of King's Bench on the subject, by the inhabitants of West Looe, one party alone was put to the expense of 1,500*l.*, and he need not say how extremely numerous must be the cases in which individuals could not have the means of establishing their rights by any such expensive applications. He therefore approved of appointing a Committee upon the subject, not for the sake of the petitioners only, but for the sake of the constituent body of England generally. The powers of the Grenville committees were too limited to do justice to the elective body. In the memorable case of the corrupt election for Grampound, a Committee was appointed under the Grenville Act, and it returned that the sitting members had been duly elected; yet, after this, it was proved before a committee of the whole house, that 8,000*l.* had been paid to secure the returns of those very members. If the present question were in any shape pending, or about to be brought before the Court of King's Bench, it was an application of individuals for personal redress, but before that house it was a question of general rights, and in such matters the House of Commons was alone competent to interfere. Something ought to be done, for the determinations of that house under the Grenville Act, were often the most corrupt determinations, influenced by party motives. How often were the decisions of Committees no more than mere orders that the descendants of some corrupt nominee of Lord Orford, or of Sir Robert Walpole, should inherit the boroughs, which their

ancestors had obtained by a Minister's violating the laws, and the rights of election. The Committee to be appointed ought to go into the whole subject.

Mr. Sturges Bourne complained that the Noble Lord had travelled out of the petition before the house, converting a subject of private complaint into a general question of election. If such a Select Committee as the Noble Lord alluded to were to be appointed for any such objects as he contemplated, it would have to settle the question of large properties, without the power of examining any evidence upon oath. The expenses of applications to the Court of King's Bench arose out of the necessity of bringing witnesses to London, and he should like to know how this could be avoided by appointing any committee upon the subject.

Lord John Russell said, that when a committee was appointed, the expenses of evidence ought to be paid by the public, as was the case in the Grampound Election committee.

Mr. Denman wished to give the House one example of the extraordinary manner in which the power of Government could dispose of elections. In the celebrated Westminster election of 1788, a question arose whether the tenants of St. Martin's-le-Grand had a right to vote. The Committee decided in the negative; and Lord John Townshend was declared to be the sitting Member. These tenants petitioned again the next year, and they had then nobody to oppose them, for nobody was immediately concerned, or had any interest at stake in getting rid of these one or two thousand voters. The consequence was, that the rights of these voters were acknowledged, and they had continued to be undisturbed. The Grenville Act might be a good act for deciding disputes between party and party, but the question before the house, was a question of general interest, and ought to be carefully and impartially investigated.—The petition was then read.

### *Interested Votes.*

WEDNESDAY, FEB. 23.—Mr. Byng moved the second reading of the bill for the iron railway in the Isle of Dogs.

Mr. Grenfell regretted that the hon. member for Aberdeen (Mr. Hume) was not present, as the house must now feel the propriety of acting upon the proposition which his hon. friend had made yesterday, that members interested should retire without voting. He (Mr. G.) was for carrying that principle farther. He would not only have any member prevented from voting on a private bill, whose private interest might lead him to support the bill; he would also exclude all those who had an interest directly opposed to the bill; and if the hon. member (Mr. Hume) would not, he pledged himself that at the earliest opportunity he would submit a measure to the house for that purpose.

Mr. Brougham observed, that the present subject was one which affected, in no ordinary degree, the interests of the public and the character of the House of Commons. He had long been a witness of the reprehensible manner in which private business was conducted, and for that reason had uniformly refused to give his vote, either one way or the other, on any private bill; except in one instance, the Highgate Chapel bill, which, conceiving it to partake of the nature of a public measure, and to be a



gross job of certain attorneys, who were influenced, not by a love of piety, but by a love of being paid their costs, he certainly opposed. He perfectly agreed in the propriety of disallowing the votes of any hon. members who were interested in private bills. But he did not see how the house could stop there. He did not see why the vote of any hon. member who was interested in a private bill should be refused, and why the same individual should be permitted by himself or by his agents to canvas the other members of the house, either personally or by letter, "intreating their vote and interest." To him, this appeared much the greater evil of the two. During the discussion on the Highgate Chapel bill, to which he had already alluded, he was about to relate an anecdote, when he was stopped, probably from the house not liking to have its feelings hurt, or its misconduct exposed, and being apprehensive that he was about, with too rude a hand, to tear the veil from its mysteries (a laugh). The anecdote related, however, to a matter which had long been a subject of notoriety, shame, and reproach; it was this—Before he had the honour of a seat in that house, he was once engaged as a counsel against a private bill. The proceedings in the committee upon the bill, instead of being carried on, as he feared too frequently was the case, with irregularity and at random, were conducted with as much decorum and solemnity as if the committee were one formed under the Grenville act. The same twenty members sat every day, and sat from an early hour until the meeting of the house, or half an hour after. They heard evidence; they heard the objections of counsel to evidence; they behaved as if they were a select election committee; in short, he never witnessed a more zealous and satisfactory investigation. Now for the result. He and the opposers of the bill, by the evidence which had been adduced, and the real strength of the case, had gained the support of sixteen out of the twenty members of the committee. At the instant, however, at which the vote was called for, down came a learned friend of his, who had been employed in support of the bill, swept all the committee rooms in the house, and brought twenty members with him, who, of course, overpowered the sixteen that had declared themselves hostile to the bill, and carried it triumphantly. This, however, was a little too much. The matter was represented to the house, and the bill was thrown out, not at all on its merits, but on the circumstance which he had described. It was a well-known principle of our constitution, that persons on a jury should not determine on the rights of private property, without fully examining the claims of the parties. The members of that house, however, did so without hesitation. They allowed themselves to be influenced, not by justice, but by favour and affection. The very men who would shudder at the notion of so conducting themselves on a jury, would, in a committee-room of that house, decide ignorantly, shamelessly, and without compunction. He had no objection to any hon. member's voting in a committee on a private bill; but then it ought to be in consequence of his having made up his mind upon the evidence and argument; it ought to be because he thought the bill should or should not pass, but not because A or B requested him to vote so or so. But if hon. members who were interested in private measures were to be disqualified

from voting upon them, why should the disqualification stop there? It was true that private business was very important; but was it as important as public business? Why should a lord of the Admiralty be permitted to vote on the motion of the hon. baronet the member for Newcastle, to reduce the number of the Board? Why should borough owners be allowed to vote against parliamentary reform? Why should those who fatten on the public purse be allowed to vote against economy? Why should persons in place and office, be permitted to vote, year after year, against the motion of the hon. member for Wareham, for abolishing the salt duties, the abolition of which might certainly tend to prevent them from having "salt to their porridge" (a laugh)? He hoped, however, a better plan would be devised for conducting the private business than that which was at present the reproach of the house.

Mr. Baring agreed in the observation that the practice of voting on private bills was a shame and reproach to the honour and character of parliament. He thought that it might be advisable to adopt some mode of balloting for private committees, as in the case of election committees, with power to strike out names known to be interested, and confine the voting to those left; or else to circumscribe that privilege by confining it to those who had listened to the arguments and evidence.

Colonel Davies strongly objected to any attempt at limiting the votes of members, who were bound to obey their constituents either in supporting or opposing the bill with all their power and influence. He did not believe that the constitution had any such power as to take away or qualify that right of voting from the members.

Mr. Calcraft could not see so much danger as was apprehended from interested votes, considering how efficient the forms of the house were to check jobbing and corruption, and how numerous the opportunities for exposing them in the course of passing a bill through both houses. There were, he conceived, checks enough in the house already to prevent the private business from being improperly carried through parliament, without resorting to new measures. If gentlemen who were in parliament could not be trusted with the impartial consideration of measures of this nature, in God's name let them be sent about their business, and let the country select proper persons to perform their legislative duties (hear). He had often, and no doubt would again, have to find fault with the corrupt decisions of majorities of that house, but certainly never with reference to private business. If individuals could be supposed capable of acting under bias in matters of a private nature, they were totally unfit for the performance of public duties; because, in those cases, the temptation was far more strong than in cases of a private description. He had rarely taken any part with reference to bills of this sort, nor did he recommend those who had any interest in private measures to do so. But he thought it was too much to describe the house to be so constructed, that when such bills came before them, their consideration should be referred to a separate tribunal, instead of being decided on by the members generally. By adopting such a plan, they would be controlled in minor points, whilst all the great business of the empire would be left to their honour and integrity.

Mr. Bright was not of the opinion of the hon. gent. when he said that the private business of that house was conducted with perfect parity. That he must deny. Decisions were very often made by persons who knew nothing about the business on which they voted. This showed that the private business was not carried on in such a way as to give satisfaction to the country and the sutor.

Mr. Hume gave notice, that he would on Friday submit a motion to determine how far the custom of parliament allowed the admissibility of the votes of members on bills in the success of which they were interested. The practice of parliament had hitherto been sufficient for every purpose of the due regulation of voting in that house; and the rules formerly laid down would, in his opinion, prevent individuals from voting on measures which affected their own interests. Another point of great importance must also be decided—namely, whether individuals, whose particular interests were hostile to a bill, ought to be allowed to oppose it.

Sir M. W. Ridley said, that, theoretically, the present mode of voting on private bills seemed to be bad; but, practically, no mischief appeared to have arisen from the way in which the private business was conducted (hear, hear). It would be found exceedingly hard to deal with this question. Direct interest might easily be made out; but very great difficulty would be found in proving such an indirect interest as ought to prevent a member from voting on any particular question (hear, hear). The committee of last year took great pains to sift the subject; and the learned gent. below him (Mr. Brougham) was exceedingly anxious that the system of ballot should be introduced; but so many objections were urged against it, that it was refused. The best mode was, he thought, to leave the matter to the honourable feelings of gentlemen themselves. He had in his possession letters, addressed to members of parliament, by persons connected with private bills, which, if he were to read, would shame their measures out of the house. It was astonishing that individuals should so far lose their feelings as men, and make such applications to members of parliament as those to which he had alluded.

Here the discussion terminated.

THURSDAY, MARCH 16. — Mr. Hume submitted to the house a resolution "that no member should vote for or against any question in which he had a direct pecuniary interest." At a very early period in the history of parliament, it had been found inconvenient and unjust that members should be allowed to vote on subjects in which they had a direct interest. It had therefore been provided by the house, that no member should be allowed to vote in favour of any measure, in the passing of which he was personally or pecuniarily concerned. But there had never been an order that such members as were similarly interested in opposing a bill should also be disqualified from voting on it. It was to this latter point that his present motion more particularly referred, and which, he thought, was not less just nor less important than that which had already been provided for. He was prepared to believe, that the house would not deal hastily with this proposition, nor agree to a resolution which should so materially alter the practice of parliament; but

if it could be proved that the existing law in this respect was unjust in itself, and injurious in its effect upon the interests of individuals, (and he did not doubt that he should afford such proof in a very ample and satisfactory manner), he trusted that it would not be thought beneath the dignity of parliament to abrogate that law, and to establish such an alteration as might seem necessary. As the parliament was the highest tribunal in the country, so it ought to be in all respects the purest. In all the inferior courts, it was a rule as old as their establishment, that no person should be engaged in the administration of justice in a cause which involved, or might be supposed to involve, any pecuniary interest or any personal feeling applying to himself. If, then, this precaution had been adopted in inferior branches of the constitution, how much the more necessary did it become to remove every ground of suspicion that the interests of members of parliament might, by any possibility, prevail so far as to bias the resolutions of the house? But the more he had considered it, the more of difficulty he was ready to confess presented itself in the manner of applying a remedy to what he believed a great evil (hear, hear). It was almost impossible to compare the proceedings of that house with those of any of the inferior tribunals to which he had alluded. Still, as a part of the principle on which his resolution was grounded was admitted, by disqualifying the votes of persons interested for,—and a part of it denied, by receiving the votes of persons interested against such measures,—the obvious inconsistency of the present practice was such as demanded a remedy. The first case which he could find on the records of the house which bore upon the question, occurred, in 1604, with regard to a member named Seymour. A bill for settling the lands of the deceased Duke of Somerset, was offered to the question of commitment by Mr. Speaker. It was moved by Sir Edward Stafford, that Mr. Seymour, a member of the house, and a party, might go forth during the debate, which was conceived to be agreeable with former orders and precedents in like cases; and Mr. Seymour went presently forth at the door. It did not appear in this case whether the member was in favour of, or opposed to, the measure; but his having an interest in it was considered a sufficient reason for excluding him from the privilege of voting. The next case occurred in 1664. Sir Robert Paston, a member of the house, being interested in favour of a bill, his vote was objected to, and refused on that ground. In this case the vote of Sir Robert Paston would have been of great importance; for the numbers on the division, with respect to the passing of the bill, were 81 and 80. He had not met with any other precedent decidedly in point till 1797; and then he came to one which might, perhaps, remove the doubts of some hon. members as to the possibility of drawing a distinction between private interest and public duty. It would be recollected that the subscribers to what was called the loyalty loan sustained a considerable loss by the fall in the price of the scrip; and to afford the original subscriber relief, a bill was introduced by Mr. Pitt, to give them a bonus of 5 per cent. on their stock. In the progress of the bill, an objection was taken to the votes of several members who were known to have subscribed to the loan, on the ground that they were personally interested in the success of the

measure. The objection was, he believed, taken by the late Mr. Sheridan. A reference was made to the chair on the subject; the Speaker said, "I have always understood the rule and practice of the house to be, that no member can regularly (subject, however, to qualification) vote on any question which involves in it an immediate interest of such member. But when any measure is submitted to the house, the substance of which is to confer pecuniary advantage, or diminish a loss, which is the same thing, I am satisfied it is not consistent with that mode of proceeding which the house has adopted on occasions of delicacy and importance, that any member should vote on a measure by which he intends to derive any benefit in case that measure should be carried into a law. It is impossible not to consider the bill before the house as a measure of the former description." Mr. Manning—who was then, as now, a member of the house—and other members of the house thereupon stated, that as they were subscribers to the loan, and might be considered interested in the passing of the bill, they would not vote on the question, and they accordingly withdrew.—Two other members—the late Mr. George Rose was one—who were subscribers to the loan remained, and their votes were directly challenged by Mr. Tierney. They rose and declared that they did not intend to accept the *bonus* which was intended to be given by the bill, and contended that they, therefore, could not be considered as being interested in the measure. Having thus divested themselves of any personal interest in the bill, the votes of those members were allowed. These proceedings, however, met with considerable objection at the time. Mr. Ryder, a member, argued that the rule which had been laid down by the Speaker, would, if pushed to its utmost extent, prevent members from voting upon all measures of taxation; for every man was interested in preventing the imposition of burdens upon himself. After considerable debate, reference was again made to the Chair. The Speaker then stated, that "the cases put by the hon. member (Mr. Ryder) were all cases where the interest of members were merely eventual along with that of the rest of the community—the rule laid down was as to a direct and immediate interest." He (Mr. Hume) thought the distinction laid down by the Speaker in that case was clear, explicit, and rational, and might be followed on all future occasions. Another instance of challenging the vote of a member occurred in 1811, with respect to the grand junction canal bill; but he would pass that by, and come to another which occurred in July of the same year, when a bill, called the Bank-note bill, was brought into the house, the object of which was to render Bank-notes current in the country. On that occasion the hon. member for Appleby (Mr. Creavey) objected to the votes of 45 Bank proprietors—that was the number in the house then—on the ground that as the operation of the bill would increase the property of the Bank of England, they, as proprietors, were interested in its passing, and should not be allowed to vote. Mr. Manning, who was the Governor of the Bank, said to the house on the part of the proprietors, "We may or may not be interested in the measure, but it is not one which we have asked for: the measure has been introduced by Government, on the ground that it is necessary for the general welfare of

the state, and not for our immediate and direct interest, consequently we ought not to be deprived of the right of voting on the question." Appeal being made to the Speaker, he said, "The rule was very plain. If they opened their journals, they would find it established 200 years ago, and then spoken of as an ancient practice, that a personal interest in a question disqualified a member from voting. But this interest, it should be further understood, must be a pecuniary interest, and separately belonging to the persons whose votes were questioned, and not in common with the rest of His Majesty's subjects, or on a matter of state policy. So it was that on a canal bill, a person whose name was down as a subscriber could not vote. On the same principle the question raised on the loyalty loan bill was rightly decided; for that was neither more nor less than to give a pecuniary remuneration to persons who had sustained a loss. It was equally clear that the house had done well on questions of taxation, or colonial policy, which were held not to disqualify any votes. Such was the law on the subject. How far the fact applied in the present case he left it to the house to decide." The question was then put and negatived without a division. He would now direct the attention of the house to another case explanatory of the practice of the house, which he had omitted to quote in the proper place. In 1623, a bill was brought in, entitled "an act for reversing and making void a decree made in the Chancery, and all orders and injunctions thereupon had and made against the Masters and Fellows of Magdalen-College, in Cambridge, and John Smyth, lessee, at the suit and prosecution of the Right Honourable Henry Earl of Oxford, Thomas Wood, and others, for a house and ground without Aldgate, London, contrary to the statutes of Elizabeth and common law of the land." Sir W. Earl moved that Dr. Gooch, the master of the college, ought to withdraw, he being a party interested in the bill. After some discussion, a resolution passed that Dr. Gooch should be heard, and then withdraw. He would mention another case which he thought was of some importance. On the 25th of April, 1621, a bill was introduced, entitled an "Act for the improvement of trade." An objection was taken to the votes of members of corporations, on the ground that they, being connected with monopolies, had a personal interest in opposing the bill, and the house determined that the objection was good. Having stated these precedents, he left it to the house to decide whether it would not be desirable that they should place themselves in such a situation as to convince the country that every measure introduced into that house would receive a fair and impartial consideration (hear). Without detaining the house longer he would submit a resolution drawn up in the words of the former Speaker, in the case of the loyalty loan bill, namely—"That no member shall vote for or against any question in which he has a direct pecuniary interest."

Mr. Littleton had no doubt that the hon. member was correct when he said that he had found great difficulty in coming to a determination as to the mode of treating this question. He had no doubt that when he first gave notice of his motion, he did not anticipate the difficulties which he afterwards experienced. Two years ago he (Mr. Littleton) had given notice of a motion somewhat similar to that which the hon.

member had submitted to the house. But that motion he was obliged to abandon, because he found that the objections to it were insuperable. His motion was, however, confined to the finding a remedy for that which he still considered a serious evil—namely, the manner in which private business was conducted in committees up stairs (hear, hear). In the house private interests were merged in the great mass of unbiassed opinion, and could produce little effect; but in committees on private bills, nobody but the parties interested ever thought of appearing, and it was there that the mischief was done. He thought that the house would gain nothing by departing from its ancient usage. Under the present system, this advantage was apparent—that it was well-known what individuals were interested in any measure before the house. Votes on private bills were so seldom challenged, that members did not think it necessary to conceal their interest in particular measures. But when once the present motion should be carried, members would be driven to resort to evasive measures. They would buy shares in the names of friends, and so have an opportunity of advocating their private interests in that house under the pretence of performing a public duty (hear). In many instances the interests of county members were identified with those of their constituents, and yet the effect of the motion would be to deprive those constituents of the services of the individuals who could best advance their object. There was another inconvenience which might arise from agreeing to the motion. Members might purchase an interest in one or two rival undertakings, in order to avoid being called upon to perform a duty in that house which might give offence to parties out of doors (hear). For these reasons, he thought it better to leave the ancient practice of Parliament untouched, and to allow every member to act as he felt due to his own character and honour: that, in his opinion, was the only moral restraint that could be imposed upon practices which certainly brought discredit on the house. He would therefore move the “previous question.”

Mr. Grenfell complained that he had been disqualified from voting on a question of great public importance on a former night, because he was known to have a private interest in the measure. It so happened, too, that on the very day when he had been disqualified, one of the hon. members for Grampound had signed a petition against the measure from the London Dock Company, in which it was stated that the measure affected their pecuniary interests (hear, hear). The principle of exclusion ought to be applied to both sides, or not at all—to those who had an interest in opposing, as well as to those whose interest it would be to support any measure. In his opinion it would be extremely unwise to accede to the motion; for if it were agreed to, half the time of the house would be wasted in finding out what members were interested in the measures before the house (hear, hear).

Mr. H. Sumner said, that if the amendment had not been moved, he had intended to have proposed a resolution declaratory of the opinion of the house, that it was derogatory from the honour of a member to vote in any question wherein he had a pecuniary interest. As it was, he would vote for the amendment.

Sir M. W. Ridley thought it would be advisable for the house to pass some declaratory re-

solution of the nature alluded to by the hon. member (Mr. Sumner), as a guide for their conduct on all future occasions. He would vote for the amendment of the hon. member (Mr. Littleton), in the hope that some such resolution might subsequently be proposed.

Mr. Peel expressed his regret, not that the motion had been made, but that there should have been any necessity for making it. He thought it would be extremely difficult to come to any resolution on the subject. He intended to vote for the amendment of the hon. member for Staffordshire, by doing which he should not be precluded from hereafter adopting any measure which he should think applicable to the subject. There were three courses which it was open to the house to pursue. The first was to adopt the motion of the hon. member for Aberdeen; the second was to pass a declaratory resolution to the effect proposed by the member for Surrey; and the third was to agree to the amendment proposed by his hon. friend the member for Staffordshire. There were, in his opinion, great difficulties in the way of the adoption of the original motion. In the first place, without entering into any nice disquisition, the right of disqualifying members from voting was one which the house ought to exercise with great caution (hear, hear). Members were sent to that house to perform duties to others. He was not certain that if he were called upon to come to a decision on the question *a priori*—that is to say, if there were no precedents on the subject—he would ever consent to any law by which a member could be disqualified from voting on any question. He should have felt *a priori* great doubts of the competency of parliament to disqualify a member from exercising his discretion, even on questions in which he had a direct personal interest (hear). Might it not happen that a member's private interest would be concurrent with the interests of his constituents (hear)? He objected to the extension of the principle of disqualification which was proposed by the motion (no, from Mr. Hume). If the motion were not intended to extend the law of disqualification, he asked the hon. member to leave it as it stood (hear). He thought the hon. member's proposition was to come to them recommended by the consideration of novelty—that it was to determine what was doubtful, and supply what was wanting. Imperfect legislation on the subject—and it was legislation as far as they were concerned—he deemed most unwise. The effect of the motion would only be to divert the influence which was now openly avowed into secret channels (hear). He thought that the hon. member had not applied himself to the correction of the great evil of which there was cause to complain—he meant the system of canvassing for votes on private committees (hear). That which was a matter of notoriety was not so much to be dreaded as that which was transacted in privacy. If he knew any member to be interested in a measure, he could challenge him before the house, and put it to his honour whether he could vote on the question, and such an appeal would not be made in vain. He certainly would prefer to the motion such a resolution as that proposed by the hon. member for Surrey, although he was not prepared to say that he would adopt even that. The better way would be for the house to act upon each individual case, without laying down any general rule.

Mr. *Hudson Gurney* mentioned a case in which an hon. member had been offered shares at a very favourable rate by the committee of a company, and in the postscript of the letter that contained that offer it was said, "the committee rely on your best exertions on all occasions to promote the interest of the project." The hon. gent. had refused to take any shares on those terms, and had gone into the public market for them, and purchased them at 50 per cent. advance.

Mr. *C. W. Wynn* thought the object of the present motion would be a great measure be answered by enforcing what was the law in the house. That law was, that the vote of any member on a bill in which he had a direct pecuniary interest should not be allowed (hear, hear). There were a great many analogous cases where the principle was recognized. Thus, in a discussion with respect to a member's seat—in questions which affected a member's conduct, and which might afterwards be followed by the censure of the house, or on which an impeachment might be founded, the practice of parliament was to hear the member in his place, after which he always withdrew, without joining in the vote. He thought it better, therefore, to let the old and recognized law of parliament take its course. The house could not prevent any member from voting, but they might, in cases where he had a direct pecuniary interest, disallow his vote when that fact became known; it would be highly dangerous to extend the principle of disqualification, even if the house had the power of doing so.

Mr. *Abercrombie* admitted that this subject was attended with difficulties almost insurmountable. It might be hard to say, that a man should be allowed to vote in a case where he himself had a direct pecuniary interest; but the objection to his vote under such circumstances must be founded in attributing to him motives by which his mind was supposed to be more or less unfairly biased. If the house adopted this principle, they should carry it farther, and apply it to all cases where motives might be supposed to operate on the member's mind. As long as they continued to be human beings, they must be affected more or less in their actions by motives. In some instances those motives were bad; but, in such cases, he knew of no control over them but that of public opinion (hear, hear). What would be the operation of the principle now proposed to be enforced? A man who possessed one 100l. share in a company, it was declared ought not to be allowed to vote; but the constituents of that member might be extremely interested in the concern, and might instruct him to vote. His refusal would be at the risk of his seat. Thus they would have him balancing the shares on one side, and the seat on the other. Would it not be much better to leave this matter to take its course—to deal with each case as it arose, and not fetter themselves with a general rule. If they could not trust themselves to deal with such cases as they occurred, it would be better for them at once to depart the house. He admitted that this was brought on under particular circumstances, and in peculiar times, when speculation had gone to a very great height all over the country, and when members of that house were possessed of interests in them to a very considerable extent; but to assert that this would give to their votes a cor-

rupt bias, would be going too far. But he did not admit that the house possessed the right of disqualifying any member. That was an infringement upon the rights of their constituents. He begged he might not be understood as denying the abuse which existed in committees up stairs; though he did not mean to say that these arose from corrupt motives. They rather, in most cases, arose from an obliging disposition which one individual was inclined to exercise towards another; but the mischief of it was, that this was exercised, in many instances, without the consideration, that in obliging a friend they adopted measures highly injurious to the interests of many individuals (hear, hear). It was not at all an uncommon thing—but in this he spoke more from the reports of others than his own personal observation—to hear members, when in committees up stairs, ask each other "Which party do you support? For whom do you come here to vote?" Now, this was a practice to which he should wish to see the whole weight of public opinion directed, but he thought public opinion alone could put it down (hear, hear).

Mr. *Stuart Wortley* admitted that great abuses existed in the present system of soliciting for votes in committees. This was the main evil, and it ought to be corrected; but he agreed that public opinion would be found its best corrective. To disqualify a man from voting who had a personal interest in a measure, would disqualify many persons who were the most active and efficient on committees; for he presumed if they were disqualified in the house, they would be also disqualified up stairs.

Sir *E. Knatchbull* denied that committees up stairs had acted in any corrupt or partial manner. If any instances of abuse occurred, what was there to hinder the parties aggrieved from appealing to the house for protection? And he begged to ask, whether any case was known in which such appeal had been made without effect?

Mr. *Robertson* supported the motion. When it was well known, that in most of the speculations now afloat in the city, some thousands of shares were reserved for the use of members of parliament, he thought it was high time that the subject should be taken into consideration. The fact was, that some of the wildest speculations were encouraged by the expected support of some members of that house.

Mr. *Hume* in reply said, that if he was before impressed with the necessity of the measure which he proposed to the house, he was still more convinced of it after what he had heard in the course of this discussion. It was stated by one rt. hon. gent. (Mr. C. W. Wynn), that the law of parliament on the question of members being disqualified from voting where they had a direct pecuniary interest, was clear and positive; but this was doubted by another rt. hon. gent. (Mr. Peel). Now he wished to have the matter set at rest by the declaration which he proposed. It was not he who violated any constitutional principles in this motion, but those who opposed it. It was admitted as a constitutional principle in all our courts, that no man could act as a judge in cases where he had a direct personal interest; and he thought it a violation of that principle that the House of Commons should be made an exception to it. However the motion might be disposed of, his object was in a great degree gained; for no man had attempted to im-

pugn the general principle for which he contended.

The amendment of "the previous question" was then put, and carried without a division.

MONDAY, JUNE 20.—On a reading of the Berks and Hants Junction Canal bill, the *Speaker* wished to address the house in explanation of two points, which, though introduced into the consideration of the present bill, equally applied to every other bill of the same nature. It was supposed by some gentlemen that the law of Parliament disqualified members from voting upon private bills in which they had a direct interest. He wished to state that it was not the law, but the usage of Parliament, which occasioned that disqualification. The rule, however, was,—at least as he found it, and he had examined with accuracy,—that only parties were disqualified who had an interest in favour of a particular measure; not those who had an adverse interest. Now he submitted to the house, whether, in considering this subject of private bills, such a distinction ought to be drawn (hear, hear). The second point was as to the admissibility of witnesses to bills respecting which they had been also petitioners. He thought it very difficult to say how far a subscribing petitioner ought to be disqualified as a witness. He knew the supposed analogy on which the disqualification was founded, but he also knew how easily, by force, or fraud, or trick, a man might be entrapped into the situation of a petitioner, for the very purpose of creating his incompetency to be a witness, although he might be in a situation to give the best evidence upon the business. The better way would, he thought, be to receive the evidence of a party so situated, subject, of course, to observation on the nature of his personal interest.

### *Private Committees.*

WEDNESDAY, MAY 18.—Mr. *Littleton* complained that the day fixed for proceeding on the Welch Iron and Coal Company's bill had been postponed for more than a month, to the great inconvenience of the parties who had been prepared, at great expense, to oppose the bill. It was now again postponed, and both these postponements had been without any notice. He therefore moved that the order for that committee be discharged.

Lord *Milton* seconded the motion.

The *Speaker* adverted to the hardship which such conduct as that of the persons concerned in this bill threw upon the parties. It was unjust to them, unsatisfactory to the public, and derogatory to the dignity of the house. He thought it was necessary for the house strongly to mark their sense of this neglect, and to rescind the order.

Sir *J. Wrottesley* stated, that not one of the members connected with the mining districts had been appointed on this committee. The expense to which parties were put by such practices called for some remedy, and he thought persons soliciting a private bill ought to enter into a recognizance for payment of the expenses, if it should appear they had no reasonable grounds for their project.

Mr. *S. Wortley* said, he had never, in the whole course of his experience, known a case of more gross and wanton neglect than that

now before the house. The parties interested in opposing the bill had received not the slightest notice of the postponement. He concurred in the necessity of preventing such practices for the future.

Mr. *Hume* suggested that the best remedy for such abuses would be by throwing open committees, and subjecting them to the animadversions which they would receive through the medium of the public press, if their proceedings were reported, and the parties concerned in them known.

The question was then put, and the order for the meeting of the committee discharged.

TUESDAY, MAY 31.—Mr. *C. Dundas* moved the recommitment of the Hants and Berks Canal bill, on the ground that the question had been unfairly got rid of in the committee, by the votes of a number of members who had come down on one day without having attended the course of the proceedings.

Mr. *Sturges Bourne* said that, apart entirely from the merits of this bill, he would support its re-commitment upon what was stated to have occurred.

Mr. *Fyfe Palmer* said, that he had regularly attended the committee, and had opposed the bill because it was injurious to private property.

Sir *Thomas Acland* said, that the conduct of the committee compelled him to vote for the re-commitment of the bill.

Mr. *Monck* did not approve of the manner in which the committee had come to the vote; at the same time he thought that vote substantially just and consistent with the evidence. In justice to all the parties, supporters as well as opponents, he would recommend that the bill should be abandoned until next session, for it would be morally impossible to carry it through both houses in the present.

The bill was sent back to the committee for further consideration.

THURSDAY, JUNE 2.—Mr. *W. H. Whitbread* presented a petition from the proprietors and promoters of the oil gas company, complaining of the manner in which (after an expense of 30,000l.) their bill had been thrown out in the committee. The hon. gent. contended at considerable length, that the conduct of private committees in general was full of injustice, and that it dissatisfied the public.

Mr. *W. Smith* was sure that the management of private committees called most loudly for reform.

Mr. *Calcraft* thought that interference was necessary, and that the earlier it took place the better. The true course, as it occurred to him, would be an act similar to the Grenville act, which regulated the election committees. For the practice, however, of coming down to vote without having heard any of the discussion upon the subject, that course was common to the house itself as well as to the divisions of it.

Mr. *Sykes* believed that, in the present Session, many projects of public utility had been defeated merely by the votes of those whose interests were personally opposed to them.

Mr. *Littleton* said that nothing could be more scandalous than the conduct of private committees; and until the system was altered, he would never sit in another.

**TUESDAY, JUNE 7.**—Mr. *Littleton* said, that after what had been lately heard of the mode of transacting business in committees on private bills, some measure was necessary in order to correct the abuses which had sprung up. It was for the credit of the house, and for the advantage of the public, that some alteration should take place in the constitution of those committees. With this view, he would move that a select committee be appointed to take into consideration the constitution of committees on private bills, and to report their observations and opinions thereupon to the house.

Mr. *S. Baines* seconded the motion. The great evil, in his opinion, was the vast number of members appointed on private committees. He hoped that in future such committees would act more in the nature of juries.

The motion was agreed to, and the committee appointed.

**THURSDAY, JUNE 30.**—Mr. *Littleton* postponed his resolutions concerning the management of business in private committees till next session.

Mr. *Brougham* had felt most severely the evils of the committees, as they had hitherto been composed. According to the practice of getting up committees, the crown obtained an influence over disputed questions of private property. The manner in which questions were decided in that House was well understood, and well appreciated by the public. The Treasury Bench had certain means of influencing all decisions. As the house was then constituted, it was difficult to devise any means of checking the evil practices which prevailed in committees upon private property. If such committees were to be thrown open to public notice, their practices might come nearer to justice and propriety. The making of the proceedings of such committees public, would have the same effect as that which was produced upon the conduct of the house, by admitting strangers into the gallery, and by the publication of the debates. There could be no question that the house of Commons would commit many egregious errors, and be guilty of much malversation, but for the efficacy of public opinion which was exercised upon their decisions by means of the publicity given to debates by the press. If the same publicity were given to the proceedings of the committees, the members of those Committees would be absolutely ashamed to do what they now did with very little hesitation.

Mr. *P. Grenfell* thought that no system that could possibly be introduced, could be worse than that which existed at present. The practices in Committees upon private property were such, that they could not stand the test of public opinion, and if the proceedings of such Committees were to be thrown open to the press, that in itself would be a great purification.

Mr. *Croker* said, that the present practice of the Clerks upon Committees, was only to take down the names of members sufficient to compose the committee; if they were to revert to the ancient practice of regularly noting each day the names of the members who attended, it would put a stop to the disgraceful occurrence of members making their appearance and voting at the close of the committee, when they had not attended to the prior proceedings, and, except from other sources, were almost ignorant of the questions upon which they voted.

Mr. *Calcraft* was convinced that justice had been done in every case; and he deprecated the idea of members consenting to put a stigma on their general conduct, when none of them could mention a single instance of abuse.

**TUESDAY, MARCH 22.**—Mr. *Calcraft* called the attention of the house to the great inconvenience which had been felt by many members attending private committees, for want of sufficient accommodation. There was at present a great press of private business going through select committees, and much confusion and delay had arisen from the want of a sufficient number of rooms where the committees might sit. On that very day he had seen not fewer than 150 persons sitting in the body of the house transacting business in private committees. Now, he was certain that nobody would object on the score of economy to having a sufficient number of rooms for the accommodation of members in their private committees. He was glad to mention this in the presence of one of his Majesty's ministers, who, he had no doubt, would feel disposed to take the matter into consideration, and to render every assistance. He could not avoid observing also on the state of the rooms to which private committees could have access. They were for the most part so narrow and confined, that members, witnesses, and other persons attending, were much annoyed by the heat and pressure. He trusted the attention of Government would be turned to this subject, and that some immediate steps would be taken to give an accommodation befitting members of the house, while acting in the discharge of so important a duty.

Mr. *Stuart Wortley*: It was a great obstruction to the progress of private business, to have (as was now frequently the case) two committees sitting at the same time in one and the same room, where it sometimes happened that two counsel were at the same moment speaking before each committee. This of course created great annoyance, and not seldom had the effect of rendering the observations of each unintelligible.

General *Gaseoyne* said, it sometimes happened that the whole of the members appointed on a committee could not obtain admission for want of room; or if they did, the room was so crowded that they could with the utmost difficulty pass from one side of the room to the other. It was not an uncommon thing to see one hundred members mixed with witnesses and strangers in the same room.

Mr. *Peel* assured the house that he would do all in his power to afford the desired remedy.

**TUESDAY, JUNE 28.**—Mr. *S. Rice* moved, "That an humble address be presented to his Majesty, praying that he would be graciously pleased to give directions for building suitable committee-rooms, and a library for the reception of the printed books and papers belonging to the house."

The resolution was agreed to.

### *Breach of Privilege.*

**THURSDAY, MAY 26.**—Mr. *Peel* had moved on a former day, that R. P. T. Pilkington should be committed to Newgate for having imposed upon a member of that house, by forging a petition on the subject of the Catholic claims. On the 17th of March a petition had been

presented to the house, professing to be signed by 14 persons of Ballinasloe, in favour of the Catholic claims. The forged petition was signed by 13 out of the 14 names attached to the former, and sentiments had been attributed to the petitioners, the reverse of those which they entertained.

The Serjeant-at-Arms now reported that he had Robert Poer Trench Pilkington in custody, pursuant to an order of the house.

Mr. Peel moved that he be called to the bar.

Mr. Pilkington was then placed at the bar.

The *Speaker*.—Robert Poer Trench Pilkington, you have been examined before a committee of this house, and there acknowledged yourself the author of a petition, purporting to be from the Protestant inhabitants of Ballinasloe, in favour of Catholic emancipation; and this house has resolved, on the report of that committee, that you, having been proved to be the author of such counterfeit petition, and having forged the signatures thereto, and having sent it as a genuine petition to a member of this house, have been guilty of a high breach of the privilege of the house. You have now been called to the bar, in order that if you have any thing to say on the subject of your offence, which may affect the decision to which the house may come respecting you, you should state it. If, therefore, you have any thing to offer in extenuation of your conduct, the house is ready to hear you.

Mr. Pilkington.—I have only to say, that I confess myself guilty of a very foolish act. As the only reparation in my power, I hastened to obey the summons of the committee, and there to confess myself the sole author of the petition, and to assure the committee, that no person whatever but myself was in any way connected with the petition. I am extremely sorry for what I have done, and am ready to submit myself to the decision of the house on my conduct. I have only to add, that since I have been in custody, I have been in an infirm state of health so as to require medical assistance.

The prisoner was then ordered into custody, and in consideration of his candour, Mr. Peel said he would move to-morrow, that he should be discharged on Monday. Upon a petition to the house, he was consequently discharged the Monday following without payment of fees; his petition stating that he was unable to pay them.

### *Printing Evidence.*

THURSDAY, MAY 12.—Mr. Kennedy moved that the evidence taken before the committee on the Leith Dock Bill be printed.

The *Speaker* observed, that the house ought to be obliged to the hon. member (Mr. Kennedy) for the manner in which he had brought the subject forward, because an erroneous idea had gone forth, that any person, without leave, and having no responsibility, might print evidence taken before a committee of that house. To do so was, however, a breach of privilege. In cases of this nature, when application was made to have evidence printed the expense must be incurred by the party applying for that evidence, and it must be printed from the Commons' copy. When permission was given to the party applying to print evidence, it was accompanied by an order to the printer of the House of Commons to print such evidence if it were called for. If this order

were not sent forth, parties desirous of procuring such evidence would be placed in this situation—that the House of Commons' printer might refuse to comply with the request to have such evidence printed.—Motion agreed to.

### *Parliamentary Documents.*

THURSDAY, APRIL 14.—Mr. S. Rice moved for the appointment of a select committee on the state of the papers printed by order of the House of Commons from the year 1800 to the accession of his present Majesty. He observed, that since the year 1800 the parliamentary papers had not been collated or arranged. A committee had, in 1802, been appointed to inquire into the state of the papers presented to the house, and in consequence of the report of that committee the documents were selected and classed. The papers thus arranged, were now known by the title of "The Seventeen Volumes of Reports." A number of most valuable documents were at that time preserved and put in order, which were now accessible to the house and the public. From that period to the accession of his present Majesty, many important documents had been presented to Parliament; but they had not yet been arranged so as to render them essentially useful to members of Parliament. His motion, therefore, was for the appointment of a committee to select from those documents such as appeared to be most valuable and important. The hon. gent. observed, that the house had derived great benefit from the library which had been established by the late *Speaker*; and the effect of his motion would be to give still greater scope to the arrangement which had originated with that individual. He concluded by moving for the appointment of a committee.

Mr. Croker gave the motion his most cordial support. The documents alluded to would form one of the most curious illustrations that could be imagined, of the history of this country. He believed, that the truth of very few political facts, connected with the history of the reign of George III., could be correctly ascertained without the assistance of those documents.

The motion was then agreed to, as was a second, giving instruction to the said committee to look out for some proper place for the safe custody of the books and papers, to which the members of the house could have the most convenient access.

### *Expenses of Printing Petitions, &c.*

TUESDAY, APRIL 28.—On the presentation of the petition of the City of London against the Corn Laws,

Mr. C. Calvert took occasion to call the attention of the house to the enormous expense which the country was put to for the printing of all these petitions. There were many of the less important kind that it might be quite sufficient merely to enter on the journals of this house, in such a manner, however, as to distinguish their prayer and object. Hon. gentlemen, in some cases, might content themselves with having them read, as an hon. friend of his, for example (Mr. W. Gordon), who had just now presented about a dozen petitions on the same subject from the same county, the greater number of which were most likely *verbatim et literatim* the same.



*Call of the House.*

THURSDAY, APRIL 14.—On a motion for leave of absence for a member for a fortnight, on urgent private business,

Sir J. Newport rose to declare, that he would divide the house against every motion of this kind which was not accompanied with a medical certificate of incapacity to attend. The importance of the question to be taken into

consideration on the night for which he had moved for the call of the house was such as to render the absence of any member, on any other account, totally inexcusable. He was determined to enforce the call, and to oppose the grant of leave of absence in any other cases than those attested by medical certificate of incapacity to attend.

Several motions of this kind were made notwithstanding; and leave was obtained.

## On Wednesday, July 6th, the Parliament was prorogued by Commission from his Majesty.

The Commons being summoned to the House of Lords in the usual form, and the commission being read, the Lord Chancellor read the following speech :—

*“ My Lords and Gentlemen,*

The business of the session being now brought to a conclusion, we are commanded by His Majesty to express the great satisfaction which he feels in releasing you from your laborious attendance in Parliament.

His Majesty returns you his warmest acknowledgments for the zeal and assiduity with which you have prosecuted the inquiries into the state of Ireland, which he recommended to you at the opening of the session. It is a particular gratification to his Majesty, that the tranquillity and improved condition of that part of the United Kingdom have rendered the extraordinary powers with which you had invested his Majesty no longer necessary for the public safety.

His Majesty is happy to be able to announce to you, that he receives from all Foreign Powers the strongest assurances of their friendly disposition towards this country, and of their desire to maintain the general peace.

While his Majesty regrets the continuance of the war in the East Indies with the Burmese Government, he trusts that the gallant exertions of the British and Native forces employed in operations in the enemy's territory may lead to a speedy and satisfactory termination of the contest.

*“ Gentlemen of the House of Commons,*

We have it in command from his Majesty

to thank you for the supplies which you have granted to him for the service of the present year, and at the same time to express the satisfaction which he derives from the reduction you have found it practicable to make in the burdens of his people.

*“ My Lords and Gentlemen,*

His Majesty has commanded us to assure you, that he is highly sensible of the advantages which must result from the measures you have adopted in the course of this session, for extending the commerce of his subjects by the removal of unnecessary and inconvenient restrictions, and from the beneficial relaxations which you have deemed it expedient to introduce into the colonial system of this country.

These measures, his Majesty is persuaded, will evince to his subjects in those distant possessions, the solicitude with which Parliament watches over their welfare: they tend to cement and consolidate the interests of the colonies with those of the mother country, and his Majesty confidently trusts that they will contribute to promote that general and increasing prosperity, on which his Majesty had the happiness of congratulating you on the opening of the present session, and which, by the blessing of Providence, continues to pervade every part of his kingdom.”

The Lord Chancellor then signified his Majesty's Royal will and pleasure, that the present Parliament be prorogued to Thursday, the 25th day of August next, to be then and here holden; to which day it was prorogued accordingly.



## **PARLIAMENTARY REVIEW.**



# PARLIAMENTARY REVIEW.

SESSION OF 1825;—6 GEO. IV.

## IRELAND.

*The ADDRESS—Catholic Association—Catholic Claims—Elective Franchise—Provision for Catholic Clergy—Church Establishment, &c.*

It is now our duty, conformably with the plan of this work, to pass judgment upon that portion of the proceedings of Parliament, a report of which is contained under the general head of *Ireland*.

These proceedings divide themselves into two parts; the one consisting of acts, the other of discussions: the one comprising what was *done*, by one or other House, as a body; the other, what was *said*, by individual members.

In our examination of what was *done*, it will be necessary to state our own opinions on the great public questions which occupied the attention of Parliament; to assign the grounds of those opinions, without which neither our opinions, nor those of any one, are worth regarding; and, lastly, to examine how far what was *done*, did or did not accord with what, in our estimation, ought to have been done.

In our examination of what was *said*, it will be our duty to scrutinize rigidly the arguments advanced on both sides of every question; to expose the shifts and pretences of a bad cause, and rid a good one of those bad arguments by which its real merits are often so materially obscured.

When a ground shall thus have been laid for passing a deliberate judgment upon the conduct, both of the legislature as a whole, and of every member of it individually; something more will be necessary, to give to this part of our work all the utility of which it is susceptible.

Though many proceedings in Parliament are very important in their effects, few of them are so important in their effects, as they are in their causes. When an event, in addition to whatever good or evil may result immediately from itself, gives indication of the existence of a cause, from which an indefinite number of events of like tendency may be expected to flow; an estimate of its importance would be very imperfect, in which this indication should not be included.

The actions of public, like those of private, men, are governed by their interests. Their interests result directly from the institutions under which they live: if these be good, public men have no interest that is not in unison with the interest of the community: under bad institutions, their interest is frequently different from, and even opposite to, that of the community. Accordingly, the working of good or bad institutions may always be traced in the conduct of public men. If the institutions be good, their conduct is directed towards the advantage of the community, which in that case is also their own. If the institutions be bad, they pursue either their individual interest, or that of the class, or party, to which they belong; and the interest of the community is sacrificed.

In our comments, therefore, upon the proceedings in Parliament, we shall endeavour, in each instance, to bring to view, not only the events themselves, but their causes; viz.—the interests, generated by political institutions, and variously modified by those numerous and diversified circumstances which compose what is termed the spirit of the age.

In all these points of view, few events will demand a greater share of our atten-

tion, than the proceedings of the last session in regard to the Catholics of Ireland. The range of these proceedings took in, not one only, but several great questions: the Catholic Association; the Catholic Claims; and the two measures, called the wings. On each of these, rooted prejudices exist: the merits, therefore, of the different questions must be entered into, at least sufficiently to place every conclusion upon evidence sufficient to support it. The multiplicity of arguments, or what passed under that name, which were brought forward by all parties, render a proportional number of words necessary for making a due estimate of their validity: and finally, discussions, in which almost every prominent person in both Houses took a part, bore unusually strong marks of that general character which is impressed upon British statesmen by British institutions, and by the particular stage of intellectual and moral improvement at which the British nation has arrived.

The main question—that of Catholic emancipation—is, in our opinion, by no means a difficult one: and that any person capable of reasoning should feel a moment's doubt upon the subject, would surprise us, if we did not know that the strongest reasoning powers desert their possessor, when he is frightened. With all opponents of the Catholic Claims, in whose instance private interest is out of the question, the contest is simply, as it seems to us, between the great principles of justice on the one hand, and vague apprehensions on the other.

The public mind, in this country, is now so far advanced, that we may affirm, without hazard of being openly contradicted, even by those who would contradict us if they dared, that to subject any person to temporal inconvenience in any shape, on the ground of his religious opinions, is, *primâ facie*, injustice and oppression: that it cannot be justified on any such ground as that his religion is bad, or unacceptable in the sight of God: nor by any thing but the certainty, or at least a preponderant probability, that some great temporal calamity will befall the rest of the community, unless averted by imposing restraints, disabilities, or penalties, upon persons of some particular faith. It will also be allowed, that, if there be a danger, and if security against that danger require the imposition of disabilities on account of religious opinions; at least no

disability should exist which does not, in some way or another, conduce to the end in view; that end being, security. We might join issue on both points, and maintain, not only the non-existence of danger, but the existence of disabilities, which, with whatever view they were *imposed*, can under no conceivable supposition (except that of extreme mental imbecillity) be now *maintained*, with any such view as that of guarding against danger. But as we have not space to argue both these questions, we will confine ourselves to the first and most important.

Before we can be called upon to say, what the danger is *not*, we are entitled to expect that the opponents of Catholic emancipation will declare what it is. This, however, the greater number of them would find an embarrassing question: accordingly few of them have ever attempted to answer it. So vague and indefinite are those fears, on the ground of which they are willing to degrade five or six millions of their countrymen to the condition of an inferior caste, that if they were asked *what* great calamity it is which they apprehend from the concession of the Catholic claims, we doubt whether one in ten of them could tell. What they have in their minds is an indistinct feeling that the Catholics are dangerous persons: and this being assumed, it never occurs to them to consider, whether the Catholics *not emancipated* are not fully as dangerous as the Catholics *emancipated* would be.

We will concede one point, about which there has been much unprofitable discussion: that no confidence is to be reposed in the professions of the Catholics; that, whatever they may *now* say, or think, they would not be satisfied with equality, if they could obtain superiority. We know of no body of men who would. We have no doubt—it would be absurd to doubt—that the Catholic clergy would willingly possess themselves of the temporalities of the Protestant Church; that the Catholic nobility and gentry, in destroying Protestant ascendancy, would willingly supply its place by the ascendancy of their own creed; and that the great body of the Catholics would gladly embrace any opportunity, and any means, of making their own religion the dominant religion of the state. We will even allow that they would aim at the suppression of all other religions, by persecution: for this is no more

than *has* been done by Catholics; and not by Catholics only, but, in every age and country, by that sect of religionists who have been uppermost, as far as they have dared.

That the Catholic aristocracy and clergy should desire a monopoly of political power, and of the wealth which that power affords, is no more than natural. The propensity to pursue their own interests, is not peculiar to *Catholic* human beings. To persecute, indeed, is not the interest of any sect: and this the majority of every sect would see, if they were wise. But the majority of every sect has hitherto been unwise: accordingly no sect (with at most but one or two exceptions) which has had the power to persecute, has ever failed to make use of it. The Romish Church persecuted, and does persecute, wherever it is strong enough: so did the Church of England, as long as it was strong enough; so did the Greek Church; so did the Presbyterian.

Now, therefore, when we have made every concession against the Catholics which the most unreasonable opponent could demand, we require of our antagonists, in our turn, that they will find some better ground for imposing disabilities upon millions of human beings, than the mischief which it is feared they would do, if it were but in their power.

If the Catholic disabilities were upheld as a measure of hostility, it would be fit to consider whether the Catholics were proper objects of hostility. But as they are professedly measures, not of hostility, but of security; the question, and the only question, is, not what the Catholics would be willing, but what they would be able, to do.

It is hard to guess what precise evil the fears of most of the Anti-Catholic orators point to. Some of them talk of a *divided allegiance*. "The Protestant" says Lord Liverpool, "gives an entire allegiance to his sovereign; the Catholic, a divided one. The service of the first is complete, of the last only qualified\*."

Now, if by the sovereign be meant the king, we should be sorry to think that every, or any, Protestant gave to his sovereign an unqualified allegiance. If allegiance mean obedience, and what else it can mean we know not, an entire allegiance is suitable only to a despotic govern-

ment. What there is of meaning in this accusation, must be, that the Catholics acknowledge a foreigner as the head of their church, to whose interests, it is imagined, they are disposed to sacrifice the interests of their country. That there is a party of persons, professing the Catholic faith, who are so disposed, is true: that this party is any thing but a small minority, is not true: for, if it were, what must be the situation, we do not say of Protestant states in which Catholics lie under no disqualifications, but of countries in which a vast majority of the people are Catholics, as France, Austria, and Spain? If the authority of the Pope be *there* paramount to that of the temporal sovereign; if the Pope be *there* suffered to depose kings; the danger apprehended is real: if not, it is imaginary.

The few Anti-Catholics who can tell what they are afraid of, seem chiefly to fear that the Catholics would attempt to subvert the established church; and this is the only tangible ground which they have assigned for their alarm.

In the first place, then, we think we may lay it down as an indisputable axiom, that the re-establishment of Catholicism, as the dominant religion in this country, is an event quite beyond the range of human probability. That six millions of persons, not having the powers of government in their hands, should either convert or conquer twelve millions, does not seem a very probable contingency. If probable at all, however, it is more probable before emancipation than after: since the power, whether of converting or of conquering, is the same, and the motive incomparably greater. They are six millions now, they would be but six millions then: their clergy would hardly be more eager to convert, nor their laity more able to rebel.

But though they might not be able, in opposition to the whole body of Protestants, to make their own religion the religion of the state; they might still, it is perhaps supposed, in concert with the sectarians, and with those other Protestants who are hostile to a church establishment, bring about the downfall of the existing church, and make all religions equal in the eye of the law.

This is to suppose, that, persons of all persuasions being included, a decided majority of the population of the two islands either is, or is likely to become, hostile to

\* *Ante*, p. 244.

the continuance of the present church establishment. For, under any other supposition, it is difficult to see what danger there could be in throwing an additional weight into a scale, which would continue, notwithstanding, to be the lighter. Now, if this be true; without giving any opinion on the question, how far good government, good order, or religion itself, would suffer, if all religions were made equal in the eye of the law; we may be permitted to doubt whether the minority should be allowed to establish *their* religion, against the will of the majority; and whether the few might not, with as much justice, tax the many to build palaces for them as churches, and to pay their physicians and their lawyers as their clergy. But we do not wish to argue the question on a ground which would provoke so much opposition.

If the church were to be subverted, it would be in one of two ways: by means of the legislature, or in opposition to it; that is, by rebellion. If, then, after emancipation, it would be in the power of the Catholics, aided or not by the dissenters, to effect, in either of these two ways, the subversion of the church; what hinders them from doing it at this moment? Is it to be done by physical force? But if they are not strong enough now, emancipation would not make them so. Is it to be done by commanding a majority in Parliament? A few Catholic peers would take their seats in the Upper House; but in the Lower, beyond those whom they command at present, they would not be able to command a single vote. There would not be one Catholic elector—the Catholic aristocracy would not possess one borough—more than at present. They would indeed be enabled to return Catholics to Parliament; and, if nobody could be found but Catholics to assail the church, the disabilities would be some security: but it would be affectation in the most zealous churchman to pretend to doubt that the number of Protestants who are hostile to the church, is at least sufficient to fill the few seats which are at the disposal of the Catholic party. How happens it then that the church is not destroyed? The question is absurd. With almost every liberal Protestant on their side, the Catholics cannot command votes enough to carry their own emancipation; and it is supposed that with the great body of the Protestants against them they could command

enough to overthrow the Protestant church!—But their influence in Parliament may increase. The Catholic electors may grow more numerous; more Catholics may become borough proprietors.—They may: and so they may, while their disabilities continue, and to the full as easily.

For the above reasons, and many others which we have not room to mention, we dismiss the idea of danger from Catholic emancipation. On the other hand, we are inclined to abate much from the current estimate of its advantages. An importance has been attached to it, both in respect of good and of evil, for which we are at a loss to find any adequate ground. We do not think that of itself it would do much for Ireland; the evils by which that country is afflicted, are not to be so summarily cured: and though Catholic emancipation might be a useful preparative to other and more important ameliorations, we do not think that it is by any means a necessary one.

Catholic emancipation would do nothing for the body of the people. Eligibility to office would be to them but a nominal privilege: excluded in *fact* by their situation in life, it is scarcely an additional evil to be excluded in *law* too. If they really feel as strongly on the subject of emancipation, as the friends of that measure wish it to be believed,—a belief which we find it difficult to entertain,—they must expect much more from it than the removal of disabilities; they must expect something which cannot be realized: to them, therefore, the effect of emancipation would be disappointment; and disappointment is seldom followed by tranquillity.

It is idle to expect tranquillity in Ireland so long as its inhabitants are the poorest and the most oppressed people in Europe. That they are the poorest, appears from the testimony of all who know them: that they are the most oppressed, no unprejudiced person can doubt, who will read the evidence taken before the Committees of the two Houses in the sessions of 1824 and 1825. He will there find, that whatever the end of government in Ireland may be, it at any rate is *not* the protection of the weak against the strong: that government and law exist in that country solely for the benefit of the strong: that, while the Negro slave is at least protected against the encroachments of all



masters except his own, the Irish peasant is at the mercy, not only of a whole series of landlords, from the proprietor of the soil down to the lowest middlemen, but moreover of the tithe-owner and the tithe-farmer or proctor, to say nothing of vestries and grand juries: that against undue demands on the part of all these persons he has no remedy: that there is no law, no administration of justice for him; the superior courts being at all times inaccessible to him, and those of the country magistrates who do not take bribes, being for the most part leagued together to deny him redress; which is in general the less difficult, as the defects of the law are such, that he who would oppress under color of the law must be exceedingly unskilful if he cannot accomplish his object without incurring the penalties of the law.

All these causes of misery, and of that discontent which does, and, we hope, ever will, accompany all remediable evils, are perfectly independent of the Catholic disabilities, and would in no respect be affected by their removal. And why should we deem it impossible to apply remedies to these evils, leaving the Catholic disabilities as they are? That "purer" administration of justice," which even the bishop of Chester \* admits to be necessary, would of itself suffice, and without it nothing will suffice, to tranquillize Ireland. It is not the power of the Protestant over the Catholic, which has made Ireland what she is: it is the power of the rich over the poor.

A superficial observer might perhaps infer, from the active demonstrations of hostility between the two sects, that it is the Catholics who are oppressed as Catholics, not the poor as poor, and that the body of the people, if they were not oppressed as Catholics, would not be oppressed at all. But if, in removing the Catholic disabilities, the power of landlords over tenants, of the tithe-owner over the tithe-payer, and of magistrates over the great body of the people, were left untouched, we cannot perceive that the condition of the Irish peasantry would be in any respect altered for the better. There is no evidence that a Catholic landlord treats his tenants better than a Protestant landlord. Catholic emancipation would not affect the mode of

collecting tithe; and the few Catholic magistrates that there are, have now an interest in protecting the poor against their brother magistrates, which, in the event of emancipation, it is possible they might not retain.

That the Protestant aristocracy, who are now in possession of a monopoly of political power and of its attendant profit, should be averse to sharing that power and profit with the Catholic aristocracy, is quite natural. It is quite natural also that the Catholic aristocracy should feel uneasy under this forced exclusion; and as the aristocracy are much better able to make their complaints heard, than the people are, it is also natural that their grievances should be more thought of, than those of the people; but we are not therefore to suppose them of more importance.

There still remains another question to be answered, before we proceed with our comment upon the debates. If the Catholic disabilities be not in reality the grand evil of Ireland, how happens it that, in the two Houses of Parliament, they are so often spoken of as if they were?

Questions of this sort are what, in the sequel of this work, we shall very frequently have occasion to put.

In reviewing the proceedings of Parliament, it may in general be remarked, that the great abuses almost always escape its notice. The composition of the Parliament affords a key to this, as it does to so many of its other peculiarities.

The truth is, that there is scarcely an individual in either House whose interest it is that the great abuses should be reformed. The members of both Houses belong, almost all of them, to those classes for the benefit of which all great abuses exist; and not being accountable to, nor in any other way under the influence of, that much larger class, who suffer by the abuses, they have abundant motives to uphold, and no sufficient motive to redress them.

This interest being common to both parties in the two Houses of Parliament, the great abuses are, in Parliamentary discussions, by a sort of tacit consent kept out of view. The Opposition party, however, must have something to attack; or they could shew no ground for finding fault with the party in power. Nothing, therefore, remains for them to do, except to fall might and main upon the small s-

\* *Ante*, p. 239.

buses, and do every thing in their power to cause them to be taken for great ones.

To apply these principles to the case now in hand. Here is a country, the most miserable, and at the same time the most turbulent, of all countries pretending to civilization; and that, under a set of institutions, which all—that is, all who derive either money or power from them—unite in designating as the best institutions that wisdom ever devised for the government of mankind. Here then is an anomaly to be explained; a cause must be found for it, and that too without imputing blame to these admirable institutions. The Catholic Question, appearing well adapted to the purpose, is eagerly laid hold of by the Whigs, and a part of the Tories, and exalted into a sovereign remedy for the ills of Ireland. It answers the purposes of the Whigs, by affording a handle for attacking the ministry, who, having such a *panacea* in their hands, neglect to apply it. It serves the purposes of both sections of the Tories, by diverting the public attention, from much more important grievances. All parties being thus interested in making as much noise about this question as possible, it is not wonderful that so much noise has been made.

The subject which chiefly engaged the attention of Parliament, on the day of its meeting, and for some time afterwards, was the Catholic Association. We need not inform our readers what this Association was: it may, however, be of some use to put them in mind of its objects. It held meetings—and it raised money. At the meetings, certain persons, mostly Catholics, and of the higher ranks, were in the habit of expressing, in strong language, their dissatisfaction at the existing state of things in Ireland, chiefly as it regarded the Catholic disabilities. To what purposes the money was applied, has never been fully made known: the offer of the Association to produce their books not having been accepted by Parliament. Part of it, however, is known to have been laid out in defraying the law expenses of such persons as had been, or were supposed to have been, injured, and were too poor to seek redress for themselves. The Association, moreover, put forth at least one address to their Catholic countrymen, earnestly exhorting them to remain peaceable and obedient to the laws.

Bodies of men very seldom act wisely: and it was little to be expected that a body of Irishmen should form an exception to the rule.

All men love power: most men love it better than any other thing, human or divine. There are times when, by joining in sufficient numbers, and acting in a body, men are enabled to exercise very considerable power. In this power, every man among them is eager to participate, by giving himself up heart and soul to the prosecution of the common design. The only part, however, of their joint operations which displays power, is the *acting* part; and this, accordingly, is the only part in which every man is eager to take a share. But to wise conduct, *thinking* is necessary, as well as acting. Thinking, however, is trouble: to the mass of mankind it is the most insupportable of all kinds of trouble: and trouble being pain, and pain being a thing which every body avoids as much as he can, we find that, as a general rule, a man will never do any thing requiring trouble, which he thinks he can, without too great a sacrifice, prevail upon another person to do for him. While every individual, therefore, is eager to *act*, the business of *thinking* for the whole body generally falls into the hands of a few: and these few will naturally be those who are known to the greatest numbers; the noisiest talkers, who, even when they have no private interest of their own to serve, are very seldom the best thinkers. As, moreover, people are naturally guided, other things being the same, by those who profess the greatest zeal to serve them; and as one very obvious mode of shewing zeal in a man's service, is to rail vehemently against those whom he considers to be his enemies; the leaders will, in addition to their other attributes, be in general among the most intemperate of the set.

These considerations would have prepared us to expect much intemperance of language in the speeches of the Association, and no very great measure of wisdom in their acts. The most foolish of their acts, however, as far as they are known (and let it be remembered by whose fault they are not all known) were not of a nature to do much harm to any body except to themselves. Considering the number of persons interested in bringing whatever was exceptionable either in their purposes or in their measures to

right, it is astonishing how little has appeared but what was allowable, if not laudable. The purpose of tranquillizing the Irish people was undoubtedly a laudable purpose; the purpose of exciting attention to their own claims, cannot well be said to be a blameable one. The purpose of giving the poor man access to that justice which the expensiveness of the law has put out of the reach of every man who does not come with a full purse in his hand,—this surely was among the most laudable of all purposes. And suppose that occasionally a party in the wrong were by their assistance enabled to come into court, and be told publicly, by judge and jury, that he was in the wrong—for that was the only privilege which their assistance conferred upon him—was this a thing to be complained of? There would be little use in a public trial, if no one were to have the benefit of it until it had first been ascertained that the right was on his side. Until *malá fide* suitors shall wear their characters stamped in large letters upon their foreheads, a public investigation is, and ought to be, the privilege of every one, whether an honest man or a knave.

Such, however, as they were, these proceedings of the Association gave great alarm to the Protestant aristocracy of Ireland. The few, in every country, are remarkable for being easily alarmed; more especially when any one takes upon himself to censure their acts. So easily are they frightened at censure, that they never seem to feel secure until they imagine that they have put a stop to it entirely; and whenever they have been able, they have treated such censure as a crime which could never be punished too severely. It is no wonder, therefore, that they should have taken alarm at the Catholic Association. They did take alarm at it a year before. Even then, as Mr. Canning said, the ministers were “goaded” to put it down\*; and, as the Association went on, the alarm increased, and ministers were “goaded” more and more, till at last they were goaded into compliance. That which a large portion of their parliamentary supporters really and earnestly demand, the ministers, if they would continue ministers, cannot long persist in refusing.

\* *Ante*, p. 38.

At the opening of Parliament, it was stated from the throne, that there existed associations in Ireland, which had “adopted proceedings irreconcilable with the spirit of the constitution,” and were “calculated, by exciting alarm and exasperating animosities, to endanger the peace of society, and to retard the course of national improvement.”

What is called a King’s speech enjoys a prescriptive right to be unmeaning, and we are not disposed to find fault with it for being so in the present instance. We cannot refrain, however, from representing to the framers of the speech, that a *sic volo sic jubeo* would have been more decent than the mere pretence of a reason. Such vague phrases as “irreconcilable with the spirit of the constitution,” “endanger the peace of society,” and the like, deserve no better name. They are not reasons; they are mere expressions of dislike. When a cause affords no better reason, there is little to be said for it: when it does, these phrases are useless, and can serve at best no higher purpose than that of swelling a period.

If the King’s speech afforded few reasons, and those few of little worth, the subsequent speeches made ample amends, in quantity of reasons, if not in quality. We will lay before our readers the whole catalogue. We imagine that the more rational and sober among the Anti-Catholics will view it with as little complacency as we ourselves.

It was alleged, then, of the Catholic Association, 1st, that its tendency was to overthrow the constitution; 2nd, that the language of some of its members was inflammatory; 3d, that it imposed taxes, issued proclamations, made laws, and in fact, exercised all the powers of government; 4th, that its business was to evade and nullify the laws; 5th, that it was a convention; 6th, that it was an *imperium in imperio*; 7th, that it frustrated the effect of beneficial measures of government; 8th, that it diverted the attention of the people from honest industry; 9th, that its subscriptions were collected by Catholic priests; 10th, that it retarded emancipation; 11th, that it adjured the Catholics “by the hatred they bore to Orangemen”; 12th, that it was a second Parliament, and used parliamentary forms; 13th, that it employed coercion in levying the Catholic rent; 14th, that it prevented capital from flowing into Ire-



# PARLIAMENTARY REVIEW.

SESSION OF 1825;—6 GEO. IV.

## IRELAND.

*The ADDRESS—Catholic Association  
—Catholic Claims—Elective Fran-  
chise—Provision for Catholic Cler-  
gy—Church Establishment, &c.*

It is now our duty, conformably with the plan of this work, to pass judgment upon that portion of the proceedings of Parliament, a report of which is contained under the general head of *Ireland*.

These proceedings divide themselves into two parts; the one consisting of acts, the other of discussions: the one comprising what was *done*, by one or other House, as a body; the other, what was *said*, by individual members.

In our examination of what was *done*, it will be necessary to state our own opinions on the great public questions which occupied the attention of Parliament; to assign the grounds of those opinions, without which neither our opinions, nor those of any one, are worth regarding; and, lastly, to examine how far what *was* done, did or did not accord with what, in our estimation, ought to have been done.

In our examination of what was *said*, it will be our duty to scrutinize rigidly the arguments advanced on both sides of every question; to expose the shifts and pretences of a bad cause, and rid a good one of those bad arguments by which its real merits are often so materially obscured.

When a ground shall thus have been laid for passing a deliberate judgment upon the conduct, both of the legislature as a whole, and of every member of it individually; something more will be necessary, to give to this part of our work all the utility of which it is susceptible.

Though many proceedings in Parliament are very important in their effects, few of them are so important in their effects, as they are in their causes. When an event, in addition to whatever good or evil may result immediately from itself, gives indication of the existence of a cause, from which an indefinite number of events of like tendency may be expected to flow; an estimate of its importance would be very imperfect, in which this indication should not be included.

The actions of public, like those of private, men, are governed by their interests. Their interests result directly from the institutions under which they live: if these be good, public men have no interest that is not in unison with the interest of the community: under bad institutions, their interest is frequently different from, and even opposite to, that of the community. Accordingly, the working of good or bad institutions may always be traced in the conduct of public men. If the institutions be good, their conduct is directed towards the advantage of the community, which in that case is also their own. If the institutions be bad, they pursue either their individual interest, or that of the class, or party, to which they belong; and the interest of the community is sacrificed.

In our comments, therefore, upon the proceedings in Parliament, we shall endeavour, in each instance, to bring to view, not only the events themselves, but their causes; viz.—the interests, generated by political institutions, and variously modified by those numerous and diversified circumstances which compose what is termed the spirit of the age.

In all these points of view, few events will demand a greater share of our atten-

land; 15th, that it pandered to the prejudices and passions of the multitude; 16th, that it interfered with the administration of justice; 17th, that even in cautioning the people to be quiet, it libelled the law; 18th, that its members, in their speeches, made attacks on private character; 19th, that it named those who should and should not be returned as members of Parliament; 20th, that it had not its freedom of speech from the crown, nor could the crown suspend it; 21st, that if it had power to quell disturbances, it had power to raise them; 22nd, that it could sit whenever it pleased; 23rd, that if it continued, it would demand the Church property; 24th, that it was the machinery of a rebellion, for the time when an occasion might arrive.

Of these twenty-four *reasons*, we abandon twenty-one to the justice and mercy of the reader. The remaining three we reserve in our own hands: viz. the inflammatory speeches; the levying of the rent, and the interference of the Association in the administration of justice.

By inflammatory language is, of course, meant, language calculated to excite hostility. Now whether hostility, and the language of hostility, be blameable or not, depends upon the occasion, and the manner. Both the occasion and the manner were in this case very peculiar.

Here is a country of which it has been said by a Lord Chancellor—Lord Redesdale—who will not be suspected of aspiring to that character which another Lord Chancellor says, he has lived too long to have much respect for, the character of a *reformer*\*:—Here is a country, we say, in which a Lord Chancellor says, that there is one law for the rich, and another for the poor. Here is a people, who, having but the smallest pittance beyond what is barely sufficient to sustain life, are compelled to give up nearly the whole of that pittance to build churches and pay clergymen for about one-fourteenth part of their numbers: in return for which, that fourteenth part take every opportunity of expressing their hatred and contempt for those who furnish them with money for these purposes, and their firm determination to extort as much more money from them, for other purposes of all sorts, as they can. Now then comes the Catholic Association, and, addressing

itself to the thirteen-fourteenths, tells them that all this misery and degradation is not the work of nature, but of men; powerful men, who produce it for their own advantage, who for their own advantage will continue it as long as they have power, and who therefore, as a first step to effecting any improvement, must be deprived of power. This may be called exasperating animosities; in a certain sense, it is exasperating animosities: to tell the many in what way the few have treated them, certainly has no tendency to make them love the few: and if the Catholic Association are to be tried by this standard, their cause, we fear, must be given up: as must also that of all other reformers, ancient or modern. If it be always a crime to excite animosities, it must be always a crime to expose abuses. If the exposure is to be deferred until it can be made in such language as will excite sentiments of affection and good-will towards the authors of the abuses, it would be as reasonable, and more honest, to say, that it is not to be made at all.

The language of the weaker party is ever inflammatory; that of the stronger, never: because it is the stronger who is the judge. A man may rail as much as he pleases at the party which is undermost, and the language which he makes use of will not be very nicely scanned: he may inflame the passions of the powerful; he may incite those to tyrannize, who have it in their power to tyrannize; and "every thing is as it should be." But let him address himself to the weak; let him attempt to stir them up, not to tyrannize, for that is not in their power, but to use their efforts to take from the strong *their* power of tyrannizing—and the state is going to wreck: sedition, insurrection are abroad: and one would imagine that heaven and earth were coming together.

It is a mockery to tell a man that he is wronged, and to bid him at the same time feel no hostility against those who have wronged him. The proper exhortation is, not to let his feelings of hostility overcome his reason, and drive him to acts of useless and wicked violence: not to wreak his vengeance upon the hay-stacks and barns of those who have acted so ill a part towards him, nor to set fire to their houses, and burn them and their families alive; but to direct all his energies to one great object, the ridding them of their mischievous power. Now all this, the

\* *Ante*, p. 240.

Catholic Association did. It not only exhorted the people to be peaceable, but many of its enemies acknowledge, that it actually made them so.

When a man has resolved to do a thing, and has it in his power, any reason will in general suffice. If the Association had not pacified the Irish, that would have been a reason for putting it down: but it did pacify the Irish: and this also was a reason for putting it down. It was discovered, that, as it had power, to quell disturbances, it probably had power to raise them: and as it was probable that it had the power, it could not but appear certain that it had the will. Upon this principle, we should be justified in throwing a man into prison, for helping a drowning person out of a river. If he had power to drag him out, he has power to push him in: so dangerous a man must not be suffered to go at large: no time must be lost in depriving him of the means of doing mischief.

It seems, however, that they had a way of pacifying the people, which made it much worse than if they had bid them go and cut throats: they adjured them to be peaceable, "by the hatred they bore to 'Orangemen':" it being deemed preferable by certain members of Parliament, that they should slaughter and burn the Orangemen, probably out of love, than live with them, out of hatred, in the peace of God and of the king. We will not now go over Dr. Lushington's argument, which instead of answering, Mr. Canning sneered at, and put to flight a whole army of syllogisms with a volley of jokes. But we do think that the Orangemen, who so rigidly act up to the Christian principle of returning good for evil, should make some allowance for the frailty of those inferior natures which fail of reaching that standard of perfection. They should bear in mind that all men cannot, like *them*, love their enemies, turn the left cheek to those that smite them on the right, and do good to those that hate them, and despitely use them. Pure as they are themselves from all malignant passions, Christianity does not surely enjoin so much severity, towards those who aim at no more than to make those passions subservient to virtue. We have no great objection to a species of hatred, which inspires men to obey the laws, and be good citizens and peaceable subjects.

We pass to the accusation of levying money, by improper means, from the people.

The Catholic Association was not the only association which was in the habit of levying money from the people. To say nothing of any others, the Methodist Conference is accustomed to levy money to a much greater amount, and for purposes much more strictly sectarian.\* As therefore the receiving of the money could not, without too gross a violation of decency, be adduced as the heinous part of the offence; a vigorous attempt was made to get up a case which should shew that the subscriptions were obtained by coercion. It was first said, that the priests were in the habit of encouraging and collecting the rent; which not being denied, it was next insinuated, that they extorted subscriptions by refusing the sacraments to those who did not subscribe. We say insinuated, because it was only spoken of as a possibility; and upon this possibility the House was called upon to legislate. It was not shewn that the priests *did* as was represented, it being sufficient that they *could* do so, without violating their religion: this last was, indeed, denied by the Catholic prelates; but then it was affirmed by Mr. Goulburn†, and the Solicitor General‡.

Without cavilling at this logic; which, however, if nicely looked into, might probably be found to be not quite formal; we will content ourselves with asking one question. Since after all no *physical* coercion was used, what definition is it possible to give of *moral* coercion? Or how are we to distinguish that legitimate influence, by which the Rev. Mr. Wilson persuades his parishioner to give, through the fear of God, his guinea to the Bible Society, from that improper influence, that coercion (since that is the word) by which the Catholic priest persuades *his* parishioners to give, through a similar fear, their several pencies to the Catholic rent? We might also ask, if the peasant can be persuaded to give money, in order to purchase absolution, how it is expected, that this sort of traffic should be put a stop to by an Act of Parliament? But we have not space to follow out this question as we could wish.

Another sort of coercion, it was positively affirmed, was practised, not by the

\* See Mr. Brougham's speech, *ante*, p. 104.

† *Ante*, p. 52. ‡ *Ante*, p. 112.

priests, but by the Association itself. This consisted in making entries in a book, which was called the black book, of the names of all those who refused to subscribe\*. Without repeating the question, which we put just now, or asking how a pretence can ever be wanting to the strong man, if such a proceeding as this is to be called coercion; we will content ourselves with one fact. It was publicly stated by Mr. Brougham†, in behalf of the Association, that the names of those who refused to subscribe were *not* entered in *any* book: proof of this assertion was offered to be presented at the bar of the House; and the House would not hear it: the fact speaks for itself‡.

The only remaining charge against the Association, which we intend to notice, is one to which we have already made some allusion: the charge of interference with the administration of justice. We do not know very well how to meet this charge; having some difficulty in discerning through the vague and misty language of the accusers, what sort of improper conduct it is, that was really imputed to the Association. One of them, indeed, Mr. W. Lamb, has not left *his* sentiments on the subject uncertain.

"There was already too much disposition," said he, "about the lower orders, even in England, to litigation. Every body knew, that if half the indictments and causes which were tried in courts were entirely omitted, it would be for the benefit of all the parties concerned in them. Then, if people would go to law, and prosecute each other needlessly, at their own expense, and even to their own ruin, where would be the end of petty ill-blood and dissension, when they were enabled to do that free of cost §!"

It having been made quite clear, by these shrewd observations, that the great fault of the judicial administration of both countries is, that justice is too accessible; that the only use of an administration of justice is to create "petty ill blood and dissension," and that it is a great crime to have been wronged; it is no wonder that Mr. Lamb should condemn the Catholic Association: who,

instead of lamenting, with him, that people should apply for justice, were perverse enough to tell them that it was their due; and even gave them money to assist them in obtaining it.

Others said, that the Association, by putting forth *ex parte* statements, biassed the minds of the jury, and deprived those whom they prosecuted of their fair chance for justice. And this, we believe, is what the charge of "interfering with the administration of justice" amounts to. In proof of this, two instances were given, and no more, of what were considered to have been improper prosecutions by the Association. In both these instances, Mr. Brougham succeeded in rendering the impropriety of the prosecution at least a matter of doubt. But let us see what it is that is to be proved, and what it is that is given in evidence to prove it. The assertion is, that the minds of juries were prejudiced against the persons whom the Association selected for prosecution; and the proof is, two prosecutions, in both of which the prisoners were *acquitted*.

One word on the subject of prejudging, and *ex parte* statements: a subject which we thought had long ago been set at rest for ever. What notion can these gentlemen have of trial by jury, if they imagine that jurymen, who have sworn to decide according to the *evidence*, will suffer themselves to be biassed by the vague rumours, the extrajudicial and unsupported *opinions*, which they have heard out of doors? If this be a true character of an Irish jury, either an Irish jury must be a very different thing from an English one, or jury trial is altogether a very different thing from what it is supposed to be.

When it has been determined that a thing is at all events to be found fault with, it is usual, in making an account of its effects, to strike out all the good items, and leave the bad ones standing alone: to hold up to view the possible evils which may arise from it, and to say nothing of the necessarily accompanying good. When publicity was given, by the Catholic Association, to the whole story of the supposed offence, the minds of the jury, say these gentlemen, might possibly be biassed against the prisoner: well—we grant them this; let them make what they can of it. But may not this very publication raise up persons, to bear witness in his favour? Is it nothing that

\* See the speeches of Mr. Peel, (*ante*, p. 115) and of the Solicitor General, (*ante*, p. 112.)

† *Ante*, p. 120.

‡ Another assertion made by the enemies of the Association (see Lord Liverpool's speech, *ante*, p. 140), that a peasant had been distrained upon, for non-payment of the Catholic rent, was summarily contradicted by Lord Kingston upon the spot.

§ *Ante*, p. 93.



the public eye has been attracted to the case, and fixed anxiously upon the behaviour of the judge and the jury? And is it no advantage, to the prisoner himself, to know the prosecutor's case,—the assertions which he intends to make, and the evidence by which he expects to prove them? What could be of more use to the defendant in a cause, than that the counsel for the prosecution should allow him to inspect his brief? Surely then it is no injury to him, that all which is contained in that brief should be made, before the trial, a subject of public discussion.

The petition of the Catholics of Ireland for emancipation was presented to the House of Commons on the first of March by Sir Francis Burdett, who, on the same evening, moved a string of resolutions setting forth the expediency of granting the Catholic claims. The motion was introduced by what is termed a conciliatory speech; that is to say, a speech in which every body found himself praised, who had any reason for expecting that he would be blamed. "A more enlightened and liberal body of men" than the clergy of the Church of England, "did not do honour to this or any other country. The Church of England was, of all others, the faith he would rather adopt," and no wonder, if we consider the excellent reason he had for adopting it: he had been "bred up" in it, "as ample a reason as any man could be called on to give for his religion\*." The Orangemen, too, were nearly perfect. "There did not exist more honourable or more liberal men." They had, to be sure, one small failing, an "unfortunate propensity to domination;" an "unwillingness to be deprived of the power they had been accustomed to exercise;" a "right which they fancied they had by birth, to trample upon their Catholic fellow-subjects†." They had no fault, in short, but a desire to *get and keep*, at all costs, as great a quantity of undue power as they could. We would ask, in what other habit of mind the worst acts of the worst tyrants have taken their rise? What else was it that prompted the crimes of an Augustus or an Aurungzebe? What else made an Alexander or a Napoleon the scourges of mankind?

There is no mistake which seems to be more universal among public men, not to speak of other men of all descriptions, than that of imagining it to be of no consequence what they do with their praise. In most other matters it seems to be pretty generally understood that the gift which is meant to be valued must be sparingly bestowed: but no measure, no temperance, is thought necessary in the distribution of praise; people seem in general to be ready to throw it at the first dog they meet. After what fashion men bepraise their *friends*, the proceedings at any public dinner will testify. At such entertainments (next to eating and drinking), the principal purpose for which the guests are assembled, seems in general to be that of receiving assurances from one another that they are patterns of every human virtue. Most men, too, are glad of any decent opportunity for bestowing laudation upon their *opponents*. It has so candid an appearance, and men are so naturally, and even so properly, eager to shew that they have no private hatred of those to whom they are politically hostile, that, even in bringing accusations against their opponents, which, if true, import the very essence of imbecillity and wickedness, they frequently clothe them in language expressive of the most profound veneration.

If Sir Francis Burdett,—after representing the state of things in Ireland as uniting a flagrant breach of faith with the most odious tyranny—after characterizing the Orangemen as the upholders of this state of things, and imputing to them as motives, a "propensity to domination" and a fancied right to "trample upon their Catholic fellow-subjects,"—can yet affirm, in the same breath, that "there did not exist more honourable or more liberal men" than these same Orangemen; how is it possible, henceforth, to set any value on any praise which *he* can bestow? We are not blaming the disposition to conciliate opponents; and we have the strongest objections to vague and general vituperation: but excessive praise, much more than which is totally unmerited, is equally mischievous, and almost equally offensive.

Bating this one fault, which, however much to be regretted, is too common not to be quite venial, and which we are far from imputing to any but the most creditable motives; the tone of Sir F. Burdett's speech was highly commendable.

\* *Ante*, p. 151.

† *Ante*, p. 152.

In some of his reasonings we are not quite sure that we concur; in particular where he partly founds the claims of the Catholics upon the treaty of Limerick. We are favourable to those claims, because we are unfavourable, on general principles, to all religious distinctions; unless when there is strong ground for them in point of expediency, which, in the case of the British Catholics, we think that there is not: but if there were,—if it were really dangerous to admit the Catholics into a participation of political power,—we are by no means prepared to say that we should be bound to incur this danger, because certain persons, none of whom are now in existence, promised something about a hundred and thirty years ago, to certain other persons, none of whom are now in existence. Every man is bound to keep his promise—agreed: that is, he ought not to make the promise, unless he is sure that he can keep it. But that the Government of *that* day should be at liberty to make promises which should be binding under all circumstances upon the Government of *this*, or that we should be pledged to do for one set of men, whatever our ancestors promised to do for another, is a maxim of much wider extent, and we will add, of much more dubious propriety. Granting, for the sake of the argument, that the Catholics of that day, though all of them partisans of the exiled family, were wronged by the non-fulfilment of the pledge which was given to them at Limerick: nothing which can be done *now*, will be any reparation to *them*. The question at present is, what is to be done with *another* set of men professing the same religion, but in no other conceivable sense the same, and who, whatever claims they may have upon our justice, or our humanity, can have none upon our good faith, since our faith has never been plighted to them. The fallacy of *irrevocable laws* is alike absurd, in every one of its shapes.

Mr. Leslie Foster, Mr. Peel, and the Solicitor General, followed in the debate, on the side opposed to the Catholics, and set forth, at considerable length, the badness of the Catholic religion, the intolerance of Catholics in other countries, &c. &c. all which being very little to the purpose, unless it could be shewn that they would derive an increase of power for bad purposes, from the concession of their claims, the following arguments were

thrown as a makeweight into the scale: 1. Grant this, and they will ask for more: (fallacy of *distrust*). 2. This concession to the Catholics would involve a violation of the Constitution: Was not the principle of the Protestant religion in church and state, made a fundamental and inviolable part of the compact with King William III. after the expulsion of James II.? and would they abandon that indispensable principle of the Bill of Rights? (fallacies of *irrevocable laws*, and *vague generalities*, cloaking a *petitio principii*). 3. The House ought not to yield to menace and intimidation†: or, in other words, having driven the Catholics to exasperation by denying them justice, they were to make that exasperation a reason for denying it to them still longer. 4. The great men, who framed the Act of Union with Scotland, introduced into that measure the principle of excluding Catholics from office§: (fallacies of *irrevocable laws*, and *wisdom of ancestors*). 5. Retaining the religion of the minority as the religion of the state, would it be safe to allow the majority to come into an equal participation with them of rights and power||?—A mere assumption, in the first place; and in the next place, it looks a little too much like the argument of the highwayman who ties your hands in order that he may more safely rob you.

Mr. Plunkett and Mr. Brougham, without grappling with the question, pointedly exposed some of the fallacies of their opponents, and addressed themselves to the House in the manner which alone has much influence with an interested audience, by appealing to their fears. In the present case, it was not possible to act upon this passion but through the medium of a fallacy. The two assumptions, upon which these gentlemen proceeded, were, that Catholic emancipation *would*, and that, without that measure, any thing else would *not*, tranquillize the Irish people¶.

\* Solicitor General, *ante*, p. 155. Mr. Peel *ante*, p. 162.

† Solicitor General, *ante*, p. 156.

‡ Solicitor General, *ante*, p. 155.

§ Mr. Peel, *ante*, p. 161.

|| Mr. Peel, *ante*, p. 162.

¶ Mr. Brougham went so far, not long after, as to say of Catholic emancipation—"Grant that to the people of Ireland, and it would allay all dissensions and disturbances—it would give us their hearts, and in giving us their hearts, it would secure our dominion over them, so that a world in arms should not be able to wrest it from us." See *ante*, p. 206.

The unconscious action of those interests, to which we have before pointed as the secret springs of the conduct both of Whigs and Tories on this question, will sufficiently account for the course pursued by both these gentlemen. But to those who desire the passing of this question on its own account, and on its own account solely, we recommend a much more effectual mode of frightening its opponents into concession. Let them drag forth and hold up to view the real evils of Ireland: let them assail the abuses of the Church, the Law, and the Magistracy: and the alarmed participators in the profits of these abuses will soon consent to forego the small interest, which they have in the exclusion of Catholics from office, in hopes of disarming some portion of the opposition to those much greater evils, to which they are indebted for so much of *their* wealth, and *their* power, the power of the few over the many.

In the interval between this first debate on the Catholic question in the Commons, and its final rejection in the Lords, much of the time of both Houses was occupied by angry discussions, arising out of the petitions which were presented for and against the bill. This, which would have required no notice if it had occurred only once, having been repeated so often as to become a marked feature in the history of the Session, we will not omit those observations which appear to us to be applicable to it.

The grand object, with both parties, in these discussions, was to make it appear that public opinion was in their favour. When a petition was presented, either from the friends or the opponents, but particularly from the opponents of the bill, up started somebody on the contrary side to prove that the petition did *not*, followed by somebody on the same side with the petitioners, to prove that it *did*, represent the true state of public opinion on the question. All this solicitude about public opinion clearly shewed how nicely the two parties were balanced. When either of them is sure of a majority, right or wrong, it seldom troubles itself much about public opinion.

The meaning (if it had any meaning) of all this talk, must have been either, 1st. That, if the public were with them, they must necessarily be in the right, (*vox populi, vox Dei*); or, 2nd. That public opinion had declared itself so strongly,

on one side, that for Parliament to take the opposite side, however right at other times, would at this time be unsafe, and therefore wrong. The first supposition (the fallacy of *authority*, in its least delusive shape) is too obviously absurd, to be imputed to any body: and the very fact, that there could be any dispute upon the subject, proves the falsity of the second. Those who felt sufficient interest in the question to put their names to a petition being in number no more than a minute fraction of the public, and these being nearly equally divided, things were exactly in that state in which it was quite certain that Parliament might take either course without one atom of risk from public opinion. To what end, then, all these acrimonious discussions?

If we disapprove of the end, we disapprove equally of the means; we see as much to blame in the tone and spirit which characterized the discussions, as we do in the discussions themselves.

It is a principle of human nature, as well established as any principle can be, that, taking men as they are (that is, ninety-nine out of every hundred of them), a man's opinion, as such, is of no value, on any matter in which his interest is concerned. Not only the assertion of the knave, but the unfeigned opinion of the honest man, if he be not a man of an unusually powerful mind, is sure to follow any strong interest, or fancied interest. On this principle nobody attaches any weight to the opinion of a Catholic, in favour of Catholic emancipation: and, on the same principle, no weight ought to be attached to the opinion of a clergyman of the Church of England, against that measure.

It admits of no question that the clergy of the Established Church in general apprehend great danger to the Church, from the concession of the Catholic claims. The clergy of an establishment, and dissenters from the establishment, are seldom on very good terms with one another; and the clergy, knowing that no Catholic can possibly approve of a Protestant church establishment, imagine that the establishment would go to pieces immediately if a single Catholic were admitted into power. The correctness or incorrectness of this notion, is not now in question; its existence is all that we are arguing for; and while it exists, every body must perceive that the clergy are as incompetent

witnesses on Catholic emancipation, as they would be on the expediency of the Church Establishment itself.

When, therefore, petitions were presented from clergymen of the Church of England against the bill; supposing Lord King, or any other supporter of the Catholic claims, to have said any thing, what would it have been proper for him to say? Simply this:—that the petitions came from a body of men, who, as to this question, were an interested body: that if their only object were to shew that the opinions of the petitioners were unfavourable to Catholic emancipation, this was scarcely worth proving, since it was hardly to be expected that they would be favourable; but that if the object of the petitioners were to prove that the measure ought not to pass, they deserved not one particle of regard beyond what might be due to their reasons, if they gave any; and that these were no more than a repetition of what had been said and answered a hundred times in that House.

This would have been common sense, and would have had its effect, both in Parliament and out of it, without the aid of declamation or invective.—The advocates of the Bill took, however, a different course. Instead of shewing that the *opinions* of the clergy, on this question, were worth nothing, they did what was utterly useless as well as irrelevant, they vituperated the *men*. They told them, that they were intolerant, that they were illiberal, that they were deficient in Christian charity; all which language, besides that it assumed the very point at issue, namely, that the sentiments of the petitioners were wrong,—really meant nothing, except that those who used the terms were very much dissatisfied with those to whom they applied them; and moreover had all the appearance of that disposition which is itself the very essence of intolerance, a disposition to apply bad names to others for having a different opinion from ourselves.

The handle which was so injudiciously given by the one party was eagerly laid hold of by the other. They retorted the charge of intolerance upon the impugnors of the clergy; they called the clergy a *prescribed body*\*. As the other side had begged the question *against* the clergy, they, not content with begging it in their

favour, proceeded to something like a threat, saying, that “the petitioners belonged to a body of men whom their lordships would find out one day, as their ancestors had found before them, that they ought to treat with respect, and not with contumely †.”

The debate on the second reading of the Catholic bill opened with an exhibition of honesty and courage not often exemplified in public men. Mr. Brownlow, a leading Orangeman, abjured his old opinions, and declared himself a convert to the cause of Catholic emancipation. Such things rarely happen in the sphere of party morality, where consistency in right or wrong usurps the praise of honesty, and where the merit of having chosen and for half a century rigidly adhered to that path which is the shortest cut to honour, wealth, and power, is accepted as an equivalent for every quality which goes to make a good minister or an honest statesman‡. Where the interests of rival parties have succeeded in rendering almost infamous the highest act of virtue perhaps which a public man can perform, we hail with joy the dawn of a better morality in the public recantation of Mr. Brownlow. The manner in which that recantation was received is among the most striking marks of the improving spirit of the age.

At the same time, we must be permitted to remark, sorry as we are to say any thing which may seem indicative of a wish to tarnish the credit which Mr. Brownlow has so justly earned,—that his new opinions, upon his own shewing, have scarcely more foundation in reason than his old ones; and we should not be surprised if some of the late proceedings of the New Catholic Association were to shake his recently acquired liberality, and re-incline him to his former prejudices.

The evidence before the Committees had wrought, he said, his conversion. Dr. Doyle had declared that two doctrines, the power of the Pope to exercise temporal authority over the subjects of other sovereigns, and his power to grant dispensations for crimes, were not doctrines

† Bishop of Chester, *ante*, p. 168.

‡ Mr. Peel, *ante*, p. 43.—“Of the Lord Chancellor, he could not speak in terms of adequate praise; but he believed he would go down to posterity as a man of exalted merits, and as the most consistent politician who had ever held the great seal.”

\* Bishop of Exeter, *ante*, p. 170.

of the Catholic church. Dr. Doyle certainly did say so. He also said (what Mr. Brownlow did not mention) that these doctrines *never had been* doctrines of that church; by which latter assertion he took away the whole value of the former. If, according to Dr. Doyle, the temporal authority of the Pope is as much a doctrine of the Catholic church as it was when a Gregory or a Boniface fulminated their excommunications and sentences of deposition against kings and emperors; if the power of dispensation is as much a doctrine of the church as it was when indulgences were openly sold from one end of Europe to the other; of what consequence is it that, in the opinion of one man, or of two men (Dr. Doyle and Dr. Murray), these powers were not authorized? Their not being authorized did not prevent their being acted upon then, nor could it prevent them, if an opportunity offered, from being acted upon now. If individual opinions were wanted, we had opinions already; opinions of foreign universities, at least as high authority as Dr. Doyle. As for the Pope, we can hardly conceive any thing more ridiculous than to talk of danger from *him*. The real danger is from the power of the priests, whether concentrated in one man, or diffused through a great number. If they place the supreme direction in his hands, it is for their own purposes: and if they do not, it is for the same reason. His power is only their power: and does Mr. Brownlow really think that either priests or any other sort of men ever give up any power which they can possibly keep; or are withheld from resuming it by any other reason than because they cannot?

We shall pass slightly over the remainder of the debate. Mr. Dawson brought forward several arguments against emancipation, the chief of which were, that Mr. O'Connell and Dr. Doyle were temperate before the committee but turbulent in Ireland: that the Catholics, in 1824, petitioned parliament for a reform in the temporalities of the Irish church, and that a Catholic parliament treated the Protestants in 1687 pretty much as Protestant parliaments have treated the Catholics ever since. Sufficient answers having been given to these objections, either by the speakers who followed, or in the former part of this article, we shall not waste our readers' time and our own by going over them again.

Mr. Goulburn and Mr. Peel again insisted upon danger to the Constitution, the Church, and the State, but without proving, any more than their predecessors had done, that whatever danger there might be would be in any wise increased by Catholic emancipation. Mr. Peel illustrated his general argument by a particular example; he put the case of a Catholic king, who, by the bill before the house, would have it in his power to appoint a Catholic ministry. The contingency is somewhat distant, as well as somewhat improbable: but suppose it certain and near at hand; unless a majority in Parliament were Catholics too, what harm could be done by a Catholic king, though backed by a Catholic ministry? If such chimerical terrors are to be listened to, what dangers are we not exposed to already! What is there to hinder the King from turning Presbyterian, and filling every office in the ministry with Presbyterians? yet is this very likely to happen? or where would be the harm if it did? Has the King, with or without a ministry of his choice, the power to change the established religion, against the will of his people? If so, he can as well change the constitution itself; whatever advantages we owe to it, exist only by his sufferance, and the government of this country is in reality despotic. But if not, what becomes of the imaginary danger?

We must now need say something (much we need not) on the celebrated speech of the Duke of York. What there was objectionable in it has been sufficiently exposed by others; and the station of the royal speaker has drawn down animadversions more severe than the speech, if delivered from other lips, would probably have called forth. As a piece of argument, it cannot be spoken of seriously; indeed it scarcely laid claim to that character. With the exception of what Mr. Canning called "the idle objection of the coronation oath\*," it only offered one reason, which turned upon the oddest of all *equivoques*. No clergyman can sit in the House of Commons; therefore (said his Royal Highness), the Protestant church, meaning the *clergy*, is not represented; *ergo*, the Catholic church, meaning the *laity*, ought not to be represented either. Considered merely

\* *Ante*, p. 261. See also, *ante*, p. 9: Fallacy of Vows.

as a declaration of opinion, we have not much to say against this speech: his Royal Highness was as well entitled, as any other person, to choose his side. It may be questioned, however, whether it would have been in any way discreditable to his Royal Highness, if, in testifying his attachment to the opinion he had chosen, he had remembered that even the Heir to the Throne is not infallible, and that it was just possible, that the opinion, to which he was thus solemnly vowing an eternal adherence, might be *wrong*.

In the interval between the second and third reading of the Catholic bill, two auxiliary measures were introduced into the lower house, which have excited much discussion, and occasioned much difference of opinion, both among the supporters and among the opponents of the Catholic claims.

The question of a state provision for the Catholic clergy does not seem to us encumbered with many difficulties. Such a provision certainly is not *per se* desirable. To a Protestant, it must of course appear desirable that there should be none but Protestants, in which case there would be no Catholic clergy, and consequently no need of paying them.—There are, however, Catholic clergy, and they exercise great influence over the people. We should be very glad to see that influence weakened: but, in the meantime, the question is, whether every thing which can be done ought not to be done, towards rendering it as little noxious as possible.

By the admission of all who know any thing of Ireland, one of the greatest evils of that country is, a deficiency of employment compared with the numbers of the people, or, what is the same thing, an excess of numbers, compared with the means of employment. As the best established general principles forbid us to expect that any measures, having for their object to provide employment for the people, can afford any thing more than a temporary palliation to the evil, whilst their numbers continue to increase at the present rate—there is nothing to be done without correcting the prevailing habit of early marriages and heedless increase of families. But to the introduction of any change in this respect, no state of things can be more adverse than one in which the priests derive their chief emoluments from marriages, baptisms, and fune-

erals\*. We make no invidious insinuations; we will not ask, whether the priests have given direct encouragement to those early marriages, which have co-operated with bad government to make the Irish people what they are; but we say that nothing can be more impolitic, nor can shew a greater ignorance of human nature, than to admit of the continuance of a state of things in which it is their interest to do so.

Whenever, therefore, a public provision shall be granted to the Catholic clergy of Ireland, we hope that the act conferring it will contain a clause, providing, not for the discontinuance of the fees on marriages and baptisms, but for their being regularly handed over to some officer, for the benefit of the public revenue. To reconcile the priests themselves to this transfer, we would suggest that a portion of their stipends should be in name as well as in reality a commutation for their fees. Under this arrangement they would no longer have an interest in encouraging improvident marriages, while the money received on account of fees would in part contribute to defray the expense of the stipends.

Another reason for paying the Catholic clergy, is to diminish the interest they now have in proselytism. Believing, as

\* Mr. Dennis Browne says in his Evidence before the Commons' Committee, that the priests have not, at an average, in his part of the country, 100*l.* a-year, and that they get for a marriage sometimes half-a-guinea, sometimes 15*s.*, never less than half-a-guinea; independently of the collections made at the wedding among the visitors, which, according to Dr. Doyle, have been known to amount to 40*l.* The Rev. Malachi Duggan, parish priest of Moyferta and Killballyowen, who stated his annual income to be about 200*l.*, declared himself to have celebrated in the preceding year about fifty marriages; whereof about thirty produced pounds or guineas each; thirteen produced various sums from 2*l.* 10*s.* to 6*l.*; four produced various sums from 5*s.* to 10*s.*; and three, to the best of his recollection, were gratuitous. Out of an income, therefore, of 200*l.*, nearly 90*l.* were derived from the fees on marriages alone. [Rev. M. Duggan's Evidence before the Commons' Committee of 1824.]

† See, however, the evidence of Mr. Frankland Lewis, before the Lords' Committee of 1825, who says [p. 41], "I believe it is known that the priests avow that they do recommend early marriages;" and the evidence of Mr. Leslie Foster [p. 66], "I believe it is a matter pretty well ascertained, that the Roman Catholic clergy are in the habit of suggesting marriages to young persons, and not merely recommending, but enjoining them." See also the evidence of Mr. Justice Day [ibid. p. 534] to the same effect.

we do, the Catholic religion to be a bad one, we of course think it undesirable that proselytes should be made to it. The motives to proselytism will be but too strong, without the aid of pecuniary interest: but when the priest's emoluments entirely depend upon the number of his flock, those motives are at the highest pitch. Surely all Protestants should wish this to be at an end.

It deserves notice, that of all those who advocated this measure in the House of Commons, there was not one who placed the expediency of it upon the right grounds. One reason assigned was, that the Catholic clergy were a meritorious body. Another, that it was desirable they should be connected with the state; a proposition in which, if, by connexion with the state, is meant dependence upon the government, we are so far from agreeing, that if the stipends were to be put upon such a footing as to create any such dependence, it would shake our confidence in the expediency of the measure itself. Another reason was, that it was desirable that a portion of the higher classes should form a part of the Catholic clergy. We do not exactly see why; or how the higher classes could be drawn into it by changing the source of its emoluments; unless at the same time an increase were made in the amount, which would be objectionable on another score.

If the reasons given for the measure were bad, the reasons against it were still worse.

The first was, that no provision is made for the clergy of any of the dissenting sects. But there is no other sect, for the payment of whose clergy there are the same reasons.

The second was, that the Catholic clergy, if paid at all, ought to be paid out of the superfluous property of the Established Church: and if the payment could not be made in that way, it ought not, however desirable, to be made at all.

The third was, that the measure tended to undermine the Established Church. Of this tendency no proof was so much as pretended to be given. But danger to the church is that sort of thing which persons of a certain stamp are accustomed to see in every thing which they do not like.

The fourth was, that the house ought not to establish a Papal Church, armed with all the jurisdiction belonging to Papacy\*. Who would not have supposed

that the question before the house was whether there should be a Catholic church in Ireland, or not?

The fifth was, that it would diminish the influence of the Catholic clergy over their flocks. This objection was brought forward in the House by nobody but Mr. Goulburn; in whose mouth it seems to be any thing but appropriate: but it is the objection which we have heard oftenest urged in other places. It has not, however, being proved by any sufficient evidence, that the Catholics would like their priests the less for being no longer a burden on them; that they feel the burden most severely, is well known: that the priests' fees were a subject of complaint with the discontented, almost equally with tithes and rents, has been given in evidence by several witnesses before the Committees\*. Further, if it were made out, that the influence of the priests would be diminished by a public provision, we should not consider this an evil, but a good; it appearing to us to be any thing but beneficial, either to religion or morality, that a body of priests should exercise any such influence over the people, as is exercised by the Catholic clergy; and the influence of the priests having besides afforded to the enemies of emancipation their most plausible topic of alarm.

The proposed alteration of the elective franchise in Ireland appears at first sight a measure of greater delicacy. To those, however, who look to things rather than names, there is no great difficulty in the question.

The forms of liberty, are one thing; the substance another. These two things are often confounded; and the consequence is, that the substance is very often sacrificed to the forms. There is a certain set of politicians, who maintain it as an established principle, that the substance always *ought* to be sacrificed to the forms; the form being in their estimation every thing, the substance nothing. It is, according to them, not only useful, but essential to good government, that the body of the people should, at every election, go to the poll, and vote for somebody; because this contributes exceedingly to the generation of public spirit: but once there, it is not of the slight-

\* See the evidence of Mr. Blake, (p. 40); of Dr. Murray, (p. 237); of Dr. Kelly, (p. 259), before the Commons' Committee of 1825; and the evidence of Major Willcocks (p. 118), before that of 1834.

est consequences whom they vote for; at least, it is not necessary that they should exercise any choice; or rather, it would be of the most fatal consequence if they did. Elections, according to them, are on the best footing, when there are but two or three real choosers; the two or three thousand, who are the nominal choosers, discharging no other functions, in regard to the favoured candidate, than that of committing to memory his name, and repeating it at the hustings, to a person stationed there to hear it.

This class of politicians find in Ireland a system of election management to their heart's content. Drove of electors, driven to the poll often without knowing, till they reach the spot, the name of the candidate whom they are to vote for; themselves the property of their landlord, a sort of live stock upon the estate, whom nobody thinks of canvassing, and who would probably stare on being told that the franchise (as it is ironically called), was regarded as a privilege to themselves. In one or two instances of late years, when the state of misery to which they were already reduced rendered ejection from their wretched tenancies an event scarcely to be dreaded, they did, in considerable numbers, break through their subjection, and from being the tools of their landlords, became the tools of their priests: in consequence of which defection they had to endure all the sufferings which the rage of their thwarted taskmasters could inflict upon them\*.

It is moreover well established, though in the lamentable ignorance which prevails in this country with respect to Ireland, it seems not to be generally known, that, of those who are called, and give their votes as, forty-shilling freeholders, it is a very small proportion indeed who are really so; the remainder consisting of persons who not only have not an interest to the value of forty shillings in the land, but who pay to their landlords a full, and more than a full rent; and are registered as freeholders by the grossest perjury on their own part, and the grossest subornation or rather compulsion of perjury on that of the Irish gentlemen, their landlordst.

\* See particularly the evidence of Mr. Leslie Foster before the Lords' Committee of 1825, (p. 79). "There have fallen, within my own knowledge, frequent instances of the tenants having been destroyed in consequence of their having voted with their clergy."

† See the evidence of Mr. Blake, (p. 43); of

It is true, as was justly observed by Col. Johnson, than the proper remedy for these evils is not disfranchisement, but vote by ballot. Vote by ballot, however, there was no chance of obtaining. Disfranchisement there was a chance of obtaining: it could do no harm, and might do good; by taking away from a few lords of the soil the power of bringing their thousands and tens of thousands to the poll, it would tend to give at least *some* more importance to the small number of electors who can choose for themselves, without drawing down upon their heads inevitable ruin. It is no mark of wisdom to reject what is good, because you cannot have what is better.

On the other hand, we agree with Lord Milton‡, that the good effects of this measure have been much exaggerated. It has been assumed, as it appears to us on scarcely any evidence, that the desire of making freeholds for electioneering purposes, has been a great cause of the minute subdivision of lands. That it may have been so in one or two instances we do not deny; indeed it is sufficiently proved that it has. But, that, as a general rule, such political influence as the landlords of the predominant party might acquire by splitting farms, over and above what they might have had without it, could act upon them with sufficient force to counterbalance the direct and obvious interest which they have in the good cultivation of their estates, is a conclusion not to be founded on one or two, or even on ten or twenty, instances. That the lands should be parcelled out in small farms, was no more than is natural in a country where, till of late, scarcely any tenants had capital enough to occupy large ones. Now, when capital is flowing into the country, the landlords are rapidly clearing their estates of the wretched cottier tenantry; uniting numbers of small farms into one, and introducing a better system of cultivation. Observe that the church lands, on

Dr. Kelly, (p. 252); of Col. Currey, (pp. 303-4); of the Rev. Henry Cooke, (p. 372); of the Rev. Thomas Costello, (p. 416); of Mr. Rochfort, (pp. 435-6); of Mr. Barrington, (pp. 577-8); and of Dr. O'Brien, (p. 588), before the Commons' Committee of 1825; the evidence of Mr. Justice Day (p. 463), before the Commons' Committee of 1824; of Mr. Leslie Foster, (p. 78); Mr. Blake, (p. 106); the Bishop of Derry (p. 290); Mr. Kelly, (p. 492); Mr. Justice Day, (p. 534); and Mr. Dominick Browne (pp. 586-7), before the Lords' Committee of 1825, &c.

‡ *Ante*, p. 214.



which no freeholds can be created, are just as minutely divided as the rest\* ; while in England, where political influence is fully as much valued as in Ireland, the land is generally let in large farms : why ? because there are farmers possessed of sufficient capital to occupy them ; and because it is in general of much more importance to a landlord that his lands should be cultivated by persons of capital and intelligence, than that he should gain a few votes, by means which are equally open to the opposite party, if they are willing to make the same sacrifices.

We, therefore, do not claim for the proposed bill, the merit of giving to Ireland a "sturdy and independent yeomanry;" we bound its pretensions to those of diminishing, in some small degree, the power of the aristocracy, and putting an end to a great amount of perjury. Though, even for these purposes, we are much inclined, with Mr. Leslie Foster and Mr. Vesey Fitzgerald, to think that it did not take a range sufficiently wide, and that to produce any very sensible improvement, the disfranchisement ought to have extended to freeholders in fee, as well as to freeholders for lives.

In the debates on this question, it may be remarked, that the extremes both of Toryism and of Whiggism were found on one side, and the more moderate of both parties on the other. This anomaly appears to us to have naturally arisen out of the circumstances of the case. The thorough-goers on both sides, in their opposition to this measure, will be found to have been perfectly consistent with themselves ; while the more moderate have on this occasion made a sacrifice of party principles, from an honest desire to promote the public good.

Every Englishman who knows any thing of the manner in which the legislature of his own country is formed, knows perfectly well that the great mass of the electors, though they have somewhat more of the *form*, have as little of the *reality*

of a free choice, as their degraded brethren, the forty shilling freeholders of Ireland. If all the English electors were disfranchised, who dare not vote but according to the bidding of their landlords, or customers, so few would be left that there would be no semblance of a popular choice, and the real amount of the aristocratic power would be made universally apparent. This would not suit either section of the aristocracy : neither the stronger section, who are now the absolute masters of the government, nor the weaker section, who hope to become the stronger, and by that means to become the masters of the government in their turn.

In confirmation of the above remark, so far as it affects the Whig party, it may be observed that the various plans which have been proposed by that party for putting the election of Members of Parliament upon a different footing, have been of a nature to add to the aristocratic power, not to diminish it : and to add to it, too, in the very manner to which the principle of the Irish freeholders' bill is most directly hostile, viz. by giving the franchise to a set of electors who are irresistibly under aristocratic controul. One of these plans is to take away the franchise from the electors of the rotten boroughs who do exercise a free choice, though from their small number they are interested in making a bad one, and to give an additional representation to the county electors, who are almost all of them under the absolute command of their landlords, and who are the very same class of electors whom the Irish freeholders' bill would disfranchise. Another of their plans, is to extend the elective franchise to copyholders ; who would be every where under exactly the same influence as the freeholders.

The more consistent, therefore, and clear-sighted among the Whigs, perceived that it was impossible for them to give their support to this measure, without departing from the principles on which they had constantly acted, and to which they were determined to adhere. Mr. Lambton's declaration, then, that he would oppose Catholic emancipation in order to frustrate this measure, appears to us perfectly consistent, and, on his own principles, proper.

The consistent Tories had exactly the same interest in opposing the measure, as

\* See the evidence of Col. Currey, (p. 304) ; of Major-Gen. Bourke, (p. 318) ; and of Mr. Rochfort, (p. 437), before the Commons' Committee of 1825 ; the evidence of Mr. Blacker, (p. 78) ; of Justice Day, (p. 264) ; of Mr. Macarty, (p. 320) ; of Mr. Simpeon, (p. 406) ; of Mr. Lawler, (p. 442) ; and of Dr. Church, (p. 450), before the Commons' Committee of 1824. Mr. Leslie Foster, indeed, is of a different opinion : see his evidence before, the Lords' Committee of 1825, p. 81.

† Mr. Plunkett, *ante*, p. 200.

the consistent Whigs: they were also actuated by the general hostility to change; and several (Mr. Goulburn for instance) who approved of the measure, opposed it with the view of thwarting Catholic emancipation. Some persons have wondered that such men as Mr. Banks should stand forward on this occasion as the champions of popular rights; but to us it appears nothing surprising, that a man who has been all his life a determined opponent of all innovation, should oppose it on this occasion as on any other.

If we have succeeded in laying open the springs of action which impelled both classes of opponents to say and do what they said and did against the bill, the reader will be able to make the application to the different speeches without our assistance, and we should have quitted the subject had there not been one passage in the speech of Mr. Brougham, which appears to us to call for particular animadversion.

We do not allude to the bitter complaint which he made, oddly enough, of the want of information, when there is probably no subject relative to Ireland, in respect to which the information was equally complete; nor to the still odder reason that he gave for suffering the Irish freeholders to continue perjuring themselves, because officers in the army, members of parliament, and bishops, perjured themselves too; nor even to the excellent definition which he gave of the "natural influence of property," when he defined it to consist in driving Englishmen by threats to go to the poll and utter a deliberate falsehood, enforcing that falsehood by the ceremony of an oath, to put a candidate into parliament of whom they knew nothing; of which influence he added that he did not complain, and that it must exist every where\*. The only part of his speech which we have it in view to touch upon, is the unprovoked attack, which he went out of his way to make, upon "the political economists."

"They were told by a class of men, who had carried their dogmatical notions almost as far, and with a spirit similar to the religious persecutions of other times—he meant the political economists, who had held up a valued friend of his, Mr. Malthus, to public ridicule, only because he differed from Mr. Ricardo on a mere metaphysical, not a practical point—that they ought to pass this measure," &c. &c. *Ante*, p. 193.

We cannot see in what manner a knowledge of the circumstance, that the political economists were intolerant, or had dogmatical notions, conduced to the forming a right decision on the subject of Irish freeholds; but the irrelevancy of this accusation is the least of the faults, with which it is justly chargeable.

If, by the term "political economists," Mr. Brougham intended to designate any particular individuals, we would recommend him,—before he again vituperates the cultivators of a science, the first principles of which it would do him no harm to study,—to consult Lindley Murray's English Grammar, from which he will learn the difference between nouns *proper* and *appellative*, and will be taught to avoid confounding *classes* with *individuals*. But if he include under the expression "political economists," all or most of those who have made the cultivation of that science their particular pursuit, we have not heard of any act which has emanated from these persons as a body; and we imagine that Mr. Malthus must have been somewhat surprised to find himself represented by his "valued friend" as having been "held up to public ridicule," by a class of philosophers, among whom he probably esteems himself to be not one of the least considerable. It strikes us, too, as rather odd, that the act of "holding a man up to public ridicule" should be regarded as proof of "a spirit similar to the religious persecutions of other times." Religious persecutors have been wont to resort to tortures of a keener description than public ridicule: and is Mr. Malthus the first person who has been held up to ridicule for a "merely speculative" opinion?

To be serious, it is astonishing, that a man like Mr. Brougham should either be ignorant himself, or should count upon so extraordinary a degree of ignorance on the part of his audience, as to impute intolerance to the political economists: a class of men who are by nothing more distinguished, than by the mildness and urbanity with which their warmest discussions have been carried on: a mildness till then unknown in the history of controversy; and forming a most striking contrast with the bitterness and animosity which have characterized the disputes not merely of politicians and theologians, contending for power over the bodies or souls of mankind, but even of

\* *Ante*, p. 193.

the professors of purely abstract science, for example the mathematicians: who in their controversies with one another, or with those who have impugned any of their doctrines, have on several occasions displayed even more than ordinary arrogance, petulance, and ill-temper. He who was ignorant of all this, or knowing it could charge the political economists with dogmatism and intolerance, must have merely taken up the first bad name which occurred to him, and without for a moment considering whether it was applicable or not, flung it at the heads of those whom he had a mind to assail.

We have not left ourselves space to comment at much length upon the two remaining discussions on the Catholic question. The subject was much more thoroughly sifted in these two debates than in the foregoing: we allude particularly to the speeches of Mr. Horace Twiss and Lord Harrowby, by both of whom the only argument was put forward which really goes to the bottom of the question, namely, that, for any mischievous purpose, the Catholics would not gain one particle of power by emancipation. Mr. Charles Grant was, as usual, honest and manly. The opponents of the Catholics begged the question against them, in all the old, and a variety of new ways: but their speeches were in every material feature so like those of their predecessors, that we need not waste any words upon them. The only speech deserving of notice on that side of the question was the speech of the Bishop of Chester: and this not so much from the merits or demerits of its arguments as from the lengths to which the right reverend prelate was hurried by the clerical *esprit de corps*, and the cavalier manner in which he treated all classes in Ireland, except the priesthood of the church, "a priest-hood," (including, we suppose, the Honorable and Venerable Archdeacon Trench, and the Rev. Mr. Morrett of Skibbereen\*) "which in the moral desolation of Ire-

land, remained the Oasis of the desert, "and gave to the eye some points on which "it could rest with pleasure†." It was ludicrous enough too, to hear a man who is pocketing thousands a year by his opinions, and who has nothing to fear from a strict adherence to them but removal from a lower grade of emolument and grandeur to a higher, spout mock-heroics, and talk of *martyrdom*.

Hitherto what we have been mainly considering, in the different speeches, has been their arguments. The occasion now calls for another sort of remark.

In private life, no maxim, that has human conduct for its subject, is more universally assented to than the paramount importance of an inviolable adherence to truth. To charge a man with a disregard to truth is justly considered as the most flagrant insult which can be put upon him: and the state of mind which characterizes an habitual liar, as one with which no good or great quality can easily coexist.

It has however been long ago observed by Addison, that party lies are in a great measure exempt from this stigma; and that men who would sooner die than be guilty of the slightest violation of truth for their individual advantage, are ready, for the benefit of their party, to put forth assertions which they not only know to be false, but which they know cannot, in the common course of things, be believed by any body for more than a few days.

Whether matters have altered in this respect, since the days of Addison, is what we do not pretend to determine. Thus much, however, will, it is believed, be found to be borne out by a considerable body of modern experience: that what would be a falsehood anywhere else, is a justifiable piece of rhetorical artifice in the House of Commons; and that gentlemen, in all other respects of the most unblemished honour, and quite incapable of saying or doing any thing which is generally regarded as dishonorable, are in the daily habit of making assertions in Parliament, which would infallibly lead an indifferent auditor to suppose that the *convenience* of an assertion for their purposes was a circumstance much more regarded by them than its truth.

It will be for the reader to judge, whe-

\* See the evidence of Lord Carbery (p. 608) before the Commons' Committee of 1825; of Mr. Blacker (p. 60, 61); and the Rev. Michael Collins pp. 375-7, before the Commons' Committee of 1824; and of Mr. O'Driscoll (p. 233) before the Lords' Committee of 1824. See more particularly the evidence of Mr. Macdonell, before the Commons' Committee of 1825, (pp. 759, 760), and the whole. For further information concerning the Oasis, see the evidence of Major Warburton (p. 147) before the Commons' Committee of 1824.

† *Ante*, p. 240.

ther the assertions which we are now about to quote, belong to the class of assertions which we have just mentioned, or not. We will deal fairly by *him and them*; we will lay before him,—together with the assertions,—if not the proofs, at least an indication of the proofs, which lead us without hesitation to pronounce them unfounded. It is possible that the gentlemen to whom they are ascribed, may have been misrepresented by the reporters; if so, they are bound in justice to the public and to themselves, to disavow them. It is also, in the case of some of these gentlemen, just possible, that they may not have known positively that the assertions were unfounded, but only, not known them to be true. We shall be extremely glad to find that the gentlemen have been misrepresented. We bear them no ill will; on the contrary, we have for some of them individually great respect. In the code of party ethics, the stain may not be a very black one; but we confess it is one from which we would gladly see them freed.

Mr. Doherty: "Frequent allusions 'had been made to the partial administration of justice in Ireland. Now he would say, and the experience of some years entitled him to say it, that the Catholics of Ireland enjoyed the fullest and fairest administration of justice. He affirmed, without fear of contradiction from any Irish member, that THE COURTS OF JUSTICE WERE EQUALLY OPEN TO THE RICH AND THE POOR, without distinction of religious sentiments\*."

The same gentleman: "As far as the experience of seventeen years' attendance on the Irish circuit enabled him to judge, THE ADMINISTRATION OF JUSTICE IN IRELAND WAS PERFECTLY PURE. He repeated that the administration of justice in Ireland was perfectly pure, that THE RIGHTS OF THE POOR MAN WERE EQUALLY RESPECTED WITH THOSE OF THE RICH, and that no distinction whatever was made between Catholic and Protestant†."

\* *Ante*, p. 67.

† *Ante*, p. 127.—Contrast this with Mr. Doherty's own words to the jury in the case of *Laurence v. Dempster*. "This case will shew the manner in which the insurrection act has been administered in a part of this county. I rejoice that the cases of oppression which have been developed at these assizes were not earlier made public, lest the sturdy guardians of our rights and privileges, who yielded lately such a reluctant assent to this harsh, but, I believe, necessary law,

Mr. North: "Mr. Cobbett, who within the last two months had become the oracle of the Catholics, had desired them to make out a list of the cases in which justice had been denied, or in which oppression and violence had received a sanction from the law. The Catholics, however, had drawn out no such list, BECAUSE THEY COULD NOT; NO SUCH CASES OF SUCCESSFUL INJUSTICE EXISTING except in the heated imaginations of those who had fabricated them‡."

Mr. Goulburn: "It had been said that there was one law for the rich and another for the poor in Ireland. If that meant that there was a denial of justice to the poor man, HE BEGGED TO DENY THE FACT. With respect to magistrates, he would assert, and he defied contradiction, that THERE WAS NO SUCH THING AS A DISPOSITION AMONG THEM TO TAKE BRIBES for the administration of justice to the poor§."

To the above list, it is with great pain we add the following passage; which, however, is so vague and intangible that it can hardly be said to contain an assertion at all, consequently not a false assertion.

Mr. Brownlow: "The Protestant gentlemen of Ireland, in the relations of parents, landlords, and magistrates, FOLLOWED THE PRECEPTS OF THEIR RELIGION, BY STUDYING THE GOOD OF ALL COMMITTED TO THEIR CHARGE, in a manner not to be surpassed by a similar body of men in any country||."

The following assertion belongs to the same class:—

The Earl of Roden: "The situation of the peasantry of Ireland had, he conceived, been very much misrepresented. NO SET OF PEOPLE ENJOYED

should have been confirmed in their opposition, from seeing the vile, selfish, and tyrannical purposes to which it has been made subservient in the hands of arrogant and oppressive magistrates; and lest they should have formed their opinions from the abuse rather than the use of this salutary law. Teach him, if he continue in the commission of the peace, that he must learn to administer the law in its true meaning, and not, as in the present case, torture it into an instrument of caprice or malevolence."

We quote from the speech of Mr. Spring Rice, *ante*, p. 127. See also, in the same speech, the energetic language of Chief Justice Bushe; language imputing to the Irish magistracy as a body, a degree of wickedness, beyond what any person in a lower station would have dared to lay to their charge.

‡ *Ante*, p. 87.

|| *Ante*, p. 81.

§ *Ante*, p. 128

"MORE AMPLY THE BENEFITS OF THE  
"BRITISH CONSTITUTION THAN THE PEAS-  
"SANTRY OF IRELAND\*."

We shall not attempt to do what volumes would not do effectually, to present the reader with the original of this delightful picture: but we can at least tell him what to read. If he will peruse those passages in the Evidence before the Committees to which we are about to refer him, he will form some conception of the purity of the administration of justice in Ireland (we are not speaking of the superior courts), both in other respects, and in regard to the taking of bribes; of the benefits which no set of people enjoy more amply than the peasantry of Ireland, to wit, those of the British constitution; and of the manner in which the Protestant gentlemen of Ireland follow the precepts of their religion, by studying, in the character of landlords and magistrates, and we will add, *grand jurors*, the good of all committed to their charge. We have inclosed our references to the most important passages within brackets. The authority of any one of these witnesses may be cavilled at; but we recommend to the reader to count them.

(Before the Commons' Committee of  
1825.)

Mr. O'Connell, pp. 51, 55, 56, [60, 61]. Col. Currey, 297, [312]. Major Gen. Bourke, 324, [325], 326, 327, 330, [336], 339, [340]. Rev. John Keily, 397. Rev. Thomas Costello, [417], 418. Mr. Rochfort, 446, 448, [449]. Mr. Kelly, 521, [522, 526]. Mr. Barrington, 578. Lord Carbery, [603]. Mr. Currie, [634]. Mr. Godley, 741.

(Before the Commons' Committee of  
1824.)

Mr. Blacker, pp. [60, 61]. Major Wilcocks, 101, [109], 113. Major Warburton, 164. Mr. Becher, [183, 184, 185]. Mr. Leslie Foster, 242. Mr. Justice Day, [253, 257, 258, 259, 264]. Mr. Newenham, 306. Mr. Macarty, [328, 329, 332]. Rev. Michael Collins, 335, 336, [337, 371, 372, 373, 374, 375, 376, 377]. Mr. O'Driscoll, 381, [383, 384, 385, 396]. Dr. Elmore, [417]. Dr. Church, 424, [429, 430]. Mr. Lawler, 441, 442, 443.

(Before the Lords' Committee of 1825.)

Mr. Leslie Foster, pp. 55, [60], 65. Mr. Doherty, 91, 94, [95]. Mr. O'Connell, [130], 131, 134, [135]. Major Gen. Bourke, 173, 176, [178], 180. Mr. Abbott, [196, 197, 198]. R v. Henry Cooke, 217. Sir John Newport 288. Mr. Barrington, 305. Earl of Kingston, [437, 439]. Archdeacon Trench, [447]. Mr. Justice Day, [524], 526, 527, [528, 529]. Mr. Dominick Browne, 588.

(Before the Lords' Committee of 1824.)

Major Willcocks, pp. 54, 55. Major Warburton, [79]. Major Powell, 109. Mr. Nimmo, [131, 132], 159, 163, [165], 179. Mr. Becher, 134, [137], 139. The Duke of Leinster, 204. Mr. Macarty, 219. The Marquis of Westmeath, 228, 229, 230, 231. Mr. O'Driscoll, [233, 234].

But, infinitely more than all these, let him read from beginning to end the evidence of Mr. Macdonnell, of Ballinasloe, before the Commons' Committee of 1825: that part of it which relates to *magistrates*, that part of it which relates to *grand juries*, that part of it which relates to *illegal tolls*, and other illegal charges, and that part of it which relates to *tithes*. He will find there—it is not safe to tell him what he will find: let him read for himself.

Among the minor proceedings of the last session relative to Ireland, none are of sufficient importance to require notice, with the exception of Mr. Hume's motion concerning the Irish church, and the debate to which it gave rise.

As this was only a motion for inquiry, we are not called upon to give any opinion on the expediency of a revision of the Church Establishment of Ireland: a large subject, and one upon which we shall have other opportunities of stating our opinions, at greater length than our limits would have enabled us, on the present occasion, to afford. We shall content ourselves, then, with an examination of the grounds, on which the House resolved, that there was no need of inquiry.

The only speaker against the motion (Mr. Peel said but a few words) was Mr. Canning. His arguments were two. One was, that a revision of the Irish Church Establishment was contrary to the Union:

\* *Ante*, p. 147.

The other consisted in calling the church revenues *property*, in denouncing all interference with them as *spoliation*, and affirming that the House might, with equal right, seize upon the lay tithes, and the property of corporations. To these arguments Mr. Canning added (what is often more effective than argument) vituperation: "he had never heard a principle so base propounded for consideration in that House\*."

The first argument is defective in two ways: in the first place, because, as was remarked by Sir Francis Burdett in his pointed answer to Mr. Canning, the Act of Union is not a law of the Medes and Persians; in the next place, because, supposing it were so, the opponents of the motion failed, on their own shewing, in making it out to be a violation of the Union. It is a mockery to say, that, in merely enacting that the churches of England and Ireland should be united in one Protestant Episcopal church, to be subject to the same laws, it was ever intended to tie up the hands of the legislature from introducing any reform into either, which might render it more conducive to its object, or to the good of the state. Mr. Peel attempted to bolster up this flimsy argument, by referring to that article of the Union by which it was provided, that the Irish bishops should succeed in a certain order to seats in Parliament: this he called recognizing the number of bishops; and so it was: recognizing the actual number; recognizing it as *being* the actual number: but not surely as a number never to be altered, should any other number be, in the opinion of the legislature, more eligible. Is a law to be construed as giving perpetuity to every thing, the existence of which it takes for granted as a fact, and provides for the consequences of it accordingly? If there had been a provision in the Union to regulate the right of pasturage upon a common, or of cutting turf upon a bog, would it have been a consequence of that provision, that the common should never be ploughed up, the bog never drained? If a man had bound himself by a contract to give his footman a livery, would he by that contract have debarred himself from ever parting with his footman?

The other argument, which turns upon the words *property* and *spoliation*, was

completely demolished in the masterly speech of Mr. Brougham, who pointed out the inherent distinctions between the revenues of the Church and private property, and the consequent inapplicability of such a term as *spoliation* to any measure for regulating their amount. *Spoliation*,—whatever be meant by *spoliation*, must at any rate be *spoliation of somebody*. The *spoliation* in question, if such it is to be called, would not be *spoliation of the present incumbents*, since it was proposed to leave their incomes untouched: it would not be *spoliation of their children, or heirs*, since these would not have got the incomes, and therefore cannot lose them. No man, no person, no actually existing being would be deprived by the proposed measure of any thing which he has, nor of any thing which he is entitled to expect. Of whom then would it be *spoliation*? Of an ideal being; a mere imaginary entity: an abstract idea: a name, a sound. It would, in one word, be *spoliation of nobody*.

Having no better arguments than these, it is no wonder that Mr. Canning should have had recourse to the old expedient of "*stinging dirt*." It is the characteristic of a bad cause to resort to such helps, as it is of a good one to have no need of them.

#### SCOTLAND.

##### *Scotch Judicature Bill.*

THE mode of administering justice in this country, is so far from being what it ought to be; the progress of improvement, in this department, is so slow, and impeded by so many obstacles; that it is matter of great interest and instruction to watch every alteration that may be called for and effected in any part of the empire. We consider it a duty, therefore, to point out what has been done by the Scotch Judicature act, which passed the legislature last session.

In order to make the matter intelligible to an English reader, it will be necessary briefly to describe the judicial establishment in Scotland; at least as far as regards civil matters.

The Court of Session at Edinburgh, is the supreme court of civil judicature, from which there is no appeal, except to the House of Lords. This court is composed of fifteen judges, called *Lords of*

Session, and one of them the Lord President. It is divided into what is called the *Inner House*, and the *Outer House*.

The *Inner House* is divided into two courts of concurrent jurisdiction, called the *First division*, and the *Second division*, in each of which there are five judges, three of whom form a quorum.

The *Outer House* is composed of the five junior judges, four of whom are called Lords Ordinary, and the fifth, Lord Ordinary on the Bills. The four Lords Ordinary officiate alternately, each of them a week, in one of the courts of the *Outer House*, where causes are commenced before him; he then sits in another court of the *Outer House* to finish the causes commenced during the preceding week.

There is also a jury court composed of three judges called "The Lords Commissioners of the jury court in civil cases." This court was instituted in 1815, for the trial and ascertainment of disputed matters of fact in civil causes, remitted to it from either of the houses of the Court of Session, or from the Court of Admiralty.

In the country, the Sheriff's Court, the judicial functions of which are exercised by a sheriff depute, or his substitute, sits once a week or oftener during the greater part of the year, and has jurisdiction in all personal actions upon contract or obligation, to the greatest extent, and generally in all civil matters, which are not, by special law or custom, appropriated to other courts.

These are the chief courts for the decision of civil causes; and the following is a brief outline of the mode of proceeding.

With the exception of certain cases touching infancy, lunacy, absence from the country, the elective franchise, and the process for distributing the effects of bankrupts, the *Inner House* forms only a court of review or appeal, and causes are ordinarily commenced in the Sheriff's Court, or before a Lord Ordinary of the *Outer House*. In the Sheriff's Court they may be commenced before the sheriff depute, or his substitute: if before his substitute, an appeal lies to the sheriff depute. After final judgment in the Sheriff's Court the cause may be removed into the Court of Session, not as a matter of course, but with the assent of the Lord Ordinary on the Bills, after presenting a

bill to him praying such a removal, upon which bill he may have a debate by counsel, or agents, touching the propriety of removing the cause. If it be removed, the party removing gives security for costs.

When a cause is commenced before the Lord Ordinary, he grants his warrant for the citation of the defender, who must put in his defences within a certain time, after which the cause is entered for debate before the Lord Ordinary for the week, who, if no matter of fact be contested, either pronounces judgment, or takes the cause into consideration. The unsuccessful party, by a written statement called a representation (prepared and signed by counsel) may request the Lord Ordinary to re-consider his judgment. This request the Lord Ordinary may at once refuse, or require a written answer to be made. If he adheres to his first judgment, he may prohibit any further application to himself for review; but if he omit to make such prohibition, the unsuccessful party may call for a second review. If the request for a second review be refused, the case is still subject to review by the Lords of the *Inner House*. This review is not allowed before one representation to the Lord Ordinary, unless he dispenses with the representation, and it is only obtained by a printed petition, called a reclaiming petition, similar to a representation. The Court hears counsel, and either refuses the prayer of the petition, or requires printed answers, in which case they hear another argument of counsel, and then pronounce judgment. This judgment, like that of the *Outer House*, may be re-considered on a petition from the unsuccessful party; but a judgment of the *Inner House*, concurring with one before pronounced, is final in Scotland, and can only be reviewed in the House of Lords. At every stage of the proceedings, an interlocutory judgment is open to the same re-consideration as a final judgment, and if the former judgment be reversed, the new judgment is open to the same review as an original one.

Here then we may have seven stages of appeal for every Sheriff's Court cause: for every Court of Session cause, six, and often more. 1. From the Substitute to the Sheriff-depute. 2. From the Sheriff's Court to the Lord Ordinary. 3. From the Lord Ordinary to himself: and this consists of

two stages; first, the debate to induce him to consider whether he shall re-consider; secondly, the debate upon re-consideration. 4. From the Lord Ordinary to the Inner House: in which there are two stages as before the Lord Ordinary. 5. From the Inner House to itself: in which there are likewise two stages. 6. To the British House of Lords: from which tribunal it is frequently necessary to send the cause back for the further consideration of the Court of Session; after which it sometime finds its way to the House of Lords again.

But there was another vice in the system of Scotch Judicature, if possible, tenfold more mischievous, even than this reiterated faculty of appeal. In England, expensive and inconsistent as our system of written pleadings is, at least it has the merit of ascertaining before the hearing, all the questions of law or fact on which the Court is required to decide. But in Scotland, the parties, instead of being compelled to state their whole case at once, were permitted to introduce new averments of fact and new pleas in law, at every interval, down to the last stage of the cause; so that the judgment in one stage was often apparently at variance with the judgment in another stage, and each stage might form as it were the commencement of a new suit. Mr. Ivory says, that

"Much of the looseness and inaccuracy of statement at present complained of at the commencement of a cause, is to be attributed to the general laxity of the whole system of procedure, which prevails in the practice of our courts. Both parties are aware, that at almost every stage of a long litigation, the defects, whether of their previous statements in point of fact, or of their previous pleadings in point of law, may be corrected and supplied. Relying on this, there is not unfrequently in the outset an inclination on either side rather to withhold and keep in the back ground many of the facts, in the view of trying the adversary's strength, and of bringing out, as far as possible, the important points on which his pleas are to be rested. This tentative sort of process is productive, not only of great expense and delay, but has a tendency to involve the case in needless perplexity, and to create a degree of confusion difficult afterwards to be got the better of."

"From the same cause many actions are brought without either the pursuer or his advisers having formed any very distinct idea how they are to be supported; and many defences, on the other hand, are set up for no other reason than to procure delay, and because the party does not find it convenient at the moment to give that consideration to the matter in dispute which is essential towards making it for a judicial decision. The important facts are afterwards dropt in as

circumstances may seem to require; former statements are at the same time retracted or explained away; and thus, while the complexion of the case varies at every turn, new questions in point of law are started, and sometimes a fresh source of litigation is opened up in the very last stage, and just when every thing seemed to have been brought to a conclusion.

"This system, which is peculiarly hurtful in a court where there are so many steps of review, is itself aggravated and re-acted upon by the very circumstance, that such a repeated process of review is competent. A party, before finally committing himself, endeavours to fish out, not only the case of his adversary, but the leaning also of the judge. Having, as he thinks, attained this, his statement of facts is attempted to be shaped so as best to chime in with the supposed views of the judge; and even then, looking prospectively to the further progress of the cause, this is done in such a way, and under so many qualifications and reserved implications, as to leave it open to put a new gloss on the matter, if that shall be found necessary, when the case ultimately comes before the Inner House.

"It is obvious that the successive judgments obtained by a course of pleading such as this, though often leading to different results, are not always in reality at variance with each other. They are truly judgments pronounced on questions distinct in themselves; and all of them may be equally sound in the legal principles on which they rest; alteration and reversal having been rendered necessary only by the new shape in which the case has been presented by the parties.

"If a system of pleading could be devised, whereby parties, before any judgment was pronounced, should be held finally concluded on the facts of the case, and on the more important legal pleas, arising out of these facts, incalculable benefit would arise, not only directly, in its immediate consequence to individual suitors, but still more, perhaps, indirectly, in its ultimate effect of securing a settled and well-defined system of law. There would no longer, as at present, be a seeming conflict in the successive interlocutors pronounced even by one and the same judge; but besides, the final sentence of that judge, when submitted to review, would much seldom be altered; and a result equally beneficial might reasonably be expected in the court of last resort. A very slight attention to the cases which occur in practice must convince every one, that it is not in the abstract principles of law, as applicable to a settled state of facts, that difference of opinion usually arises, but in the different views which suggest themselves to different minds in regard to an unsettled state of facts, as presented in the long, confused, and contradictory pleadings of parties."—"The number and extent of our written pleadings is at present a very serious evil. Were business conducted as it ought to be, they must be admitted, at the very least, to be useless; for surely if a case be once stated fully and accurately, there cannot be any necessity for reiterating the statement in one pleading after another, until the judge's table absolutely groans under the burden of the records. Yet, in point of fact, if almost any one process be taken up and examined, the written pleadings will be found, in the shape of argumentative condensations on the grounds of action, memorials, minutes, representations, petitions, informations, &c., to be nothing more from beginning to end,



than an uninterrupted series of repetitions, in which, most frequently, little more is done than serving up the same identical argument under a different arrangement of its heads\*.”

Seven or more stages of appeal! The parties put to the expence of *printing* the statement of their differences! with an almost interminable faculty of starting new causes of action and new defences, and of pursuing the new game through all the stages which had occupied the chase of the old! Mr. Cook, however, (one of the persons consulted by the Commissioners appointed by Parliament to inquire into the matter,) “most highly appreciates” this system, and considers “that every, the most minute alteration, ought to be made with the greatest possible caution.” And Mr. Chalmer, another of the persons consulted, says, “the form of proceeding long established in Scotland appears to me fully sufficient to attain the ends of justice, *with dispatch and advantage to the suitor*†.”

Fortunately, the legislature has come to a different conclusion; and though Parliament has not sufficient resolution or acquaintance with the subject to establish an entirely new system, they are willing as far as possible to palliate the mischiefs of the old.

The main object of the bill is to compel the parties to give in before the hearing of the cause, a complete and definite statement of the points in dispute between them, instead of allowing them as heretofore to start new facts and new pleas *ad infinitum* at every interval of the cause. The obvious mode of obtaining such a statement in the most trustworthy shape, and at the least expence of time and money, would be to summon both parties at once before the judge,—to allow him to extract it from them by interrogation and counter interrogation, in public, and himself to commit the whole to writing, as in the case of a prosecution for felony in England. The legislature, however, has chosen rather to follow the model of the written pleadings in our courts, which, though more likely to bring the case to a conclusion than the former system in Scotland, is still, fearfully dilatory and expensive.

The pursuer is now required in the

outset of the cause, to set forth in precise terms, the ground and extent of his demand, and the defender, all the defences both dilatory and peremptory, on which he means to rely. When the Lord Ordinary is satisfied that no further disclosure of facts is necessary, he is to call on the parties to declare whether they are willing to abide by their respective statements. If they agree to do so, the record is made up: but if they do not agree, he may require them to put in a condescendence and answer, or mutual condescendences, containing a final statement. This final statement each party is to revise, and make the necessary alterations to meet the opposite averments; and of these revised pleadings, there is to be a concise note signed by counsel.—Here, is enough to occupy the lawyers many weeks, with what the judge, if the parties were called before him, could often do in half an hour.—Where facts are disputed, the Lord Ordinary may give such orders for the ascertainment of them as he thinks fit, or remit them for investigation by the jury court. The parties are then (when the facts have been ascertained) called for judgment, and upon that occasion may be further heard.

The bill reduces the number of Lords to form a court for each of the divisions of the Inner House from five to four, and increases the number of the Lords Ordinary from five to seven. In cases of difficulty, it also enables the Lords of Session to order a hearing in the presence of their whole number; instead of one division sending, as formerly, for the written opinion of the judges of the other division, upon cases of this nature.

Upon an appeal from a Lord Ordinary to a division of the Inner House, the Lord Ordinary is allowed to sit and form a constituent part of the court of appeal. This must place all the five in a very unpleasant situation, and not afford the best chance of having the first decision reversed where justice may require it.

In the Sheriff's Court, in causes not exceeding 12*l.* value, the decision of the sheriff depute is to be final; but causes beyond the value of 40*l.* may be removed for jury trial as well as appeal, which was not allowed before.

The bill then proceeds to extend the class of cases which may be submitted to the jury court, and to abolish the practice of each party furnishing the other, previously to the trial with a list of witnesses,

\* Appendix to the Report of the Commissioners appointed to inquire into the forms of process in the Court of Session, and the course of appeals to the House of Lords, 1824. See p. 160.

† See Appendix to Report, p. 62.

a practice which had been found productive of more inconvenience than advantage.

Such are the principal alterations effected by the present measure, and as far as they go, they are in the main beneficial; they are also interesting, as indications, that the spirit of improvement is awake upon this most hopeless of all institutions, and that the government is ready to proceed as far as its information permits. It is lamentable, nevertheless, to think how small a portion of the evils attendant on our jurisprudence these alterations will remove, and how few persons there are in the legislature, able and willing to devote their minds to the subject. Scotland, however, in her Sheriff's Courts possesses a prodigious advantage over England. In them to a certain extent, justice is weekly brought home to the doors of the suitor. If six out of the seven stages of appeal were cut off; if but one review of the case were allowed, and that, upon a statement of facts, drawn up by the judge, and sent post free to a metropolitan court, there could be little complaint as to the delay and expense of judicial proceedings. As the subject passed off so briefly in Parliament, and as it will require a further notice in our article on County Courts, we shall not, at present, enter upon it more at length; we must, however, seize the first opportunity of developing the mode in which that main support of civilised society may be attained,—a cheap and expeditious administration of justice.

#### FOREIGN DEPENDENCIES.

##### *Colonial Trade Bill.*

CONCURRING, as we do, for the most part, in the truth of Mr. Huskisson's observations with respect to our colonial trade, we feel ourselves relieved from the necessity of discussing them one by one, and of examining his speech in detail. More acceptable service may be rendered by an explanation of the principles upon which his measure of last session is founded, and its probable results in practice; the more especially as little notice is taken of this important part of the inquiry in Mr. Huskisson's speech.

To investigate the probable effects of commercial measures by the help of scientific principles, is too commonly a tedious

effort, and is felt by the House of Commons as a task of peculiar irksomeness; in this instance, as in so many others, the distaste for accurate reasoning exhibited by that assembly only renders it more incumbent upon us to expound those principles upon paper, which failed, from their abstruseness, to find publicity in the parliamentary debates.

The proposition, however, by which we shall begin, is by no means alarmingly recondite. What is wanted, as the end of all commercial laws, is the production of the greatest quantity of commodities at the lowest cost. Now those, who agree with Mr. Huskisson, assert that, as the greatest quantity of any single commodity is produced by *dividing* the labour of individual workmen, so the greatest amount of all commodities is obtained when each nation addict itself to such branches of production as its peculiar facilities may suggest.

The varieties of climate, situation, and soil, afford to every country some advantages, in the employment of industry, not possessed by others. By making use of such advantages, not only will a country contribute its greatest power in the production of wealth, but will obtain the greatest share of wealth for its own enjoyment. Suppose, for instance, the silk consumed in Great Britain to be the produce of a capital of 1,000,000*l.* If the facilities possessed by France for the raising of silk exceed our own by 25 per cent., it is clear that capital of the value of 800,000*l.* would produce the same amount of silk in France, with the British capital of 1,000,000*l.*: it follows, then (since the produce of the same amounts of capital, other things remaining the same, must exchange for one another), that Great Britain, by employing four-fifths of this capital in the production of other articles for which a demand might exist in France, and for whose production that country possessed inferior facilities to herself, would obtain the same amount of silk, and set free 20,000*l.* worth of capital, to be employed in other branches of industry. The consumers of silk would then obtain the same quantity as before, at four-fifths of the former cost, retaining the remaining fifth for the satisfaction of other wants; and that not only without injuring, but with a similar advantage to, the French producer.

The inference is both obvious and satisfactory: it is, that every nation derives the greatest benefit by the separate exercise of those facilities which art or accident have bestowed upon her.

It may, however, be objected that France might possess superior facilities of production in every article. Would that exclude the inter-national traffic? By no means. For it is not necessary to the existence of a trade between two countries, that each should possess over the other an absolute facility in the production of the commodity which it exports, but only a relative facility as compared with its power of producing the article which it imports. Thus, for instance, suppose England to be desirous of importing French silk, which she would pay for in manufactured cotton; now although both silks and cottons could be manufactured with less labour in France than in England, it does not follow that it would not be the interest of France to confine herself wholly to the manufacture of silk, and to import her cottons from England. If in France a bale of silk could be manufactured by 50 days' labour, and a bale of cotton by 60 days' labour, whilst in England a bale of cotton required 70 days' and a bale of silk 80 days', it would be advantageous to both parties that a French bale of silk should be exchanged for an English bale of cotton; because France would thus receive in exchange for a bale of silk which had cost her 50 days' labour, a bale of cotton which would have cost her 60 days', whilst England would also gain by giving a bale of cotton which had cost her 70 days', for a bale of silk which would have cost her 80 days'. Thus each party would save 10 days' labour by the exchange. It is manifest, then, that so long as different countries possess a different relative facility in the production of the various articles of consumption, commerce will continue to exist, and every nation will be able to find some commodities on which it may profitably employ its labour, with the view of exchanging them for the production of its neighbours.

But even putting the extreme case, in which England should not possess the means of producing a single commodity for which a demand existed in France; a commercial intercourse might still be carried on between them, through the inter-

vention of a third country. Could we suppose a country so neglected by nature, and so destitute of artificial superiority, as to find itself outdone, by all the other countries of the globe, in every single branch of industry, in a degree, too, exactly proportionate to the cost of production of each, and absolutely in want of some one commodity, as, for instance, gold,—an extravagant case, indeed, but necessary for demonstrating the perfect truth of the hypothesis;—such a country would not fail to trade with its more fortunate neighbours: its commerce would be carried on through the medium of the precious metal; at any rate it would purchase gold, though at a greater comparative cost, with such commodities as were in request in the countries exporting that metal. In consequence of the abundance of its gold, the value of that metal would sink, and so afford an inlet for importation from all other countries, who would find their gain in purchasing its gold, though not its raw produce or manufactures. By successive operations of this sort, its trade would be long retained and constantly reproduced. So difficult is it even to conceive a case where national interchange shall not exist; and imagination cannot suggest an instance, in which, if left to its natural course, it can exist without reciprocal benefit to the parties between whom it is carried on.

It is clear then, that, as the interest of every country will incline it to those branches of production for which it is best qualified; so it is impossible to divert its industry from that channel by compulsory means, without diminishing the aggregate of its revenue, and impeding its prosperity. What a country is forced to consume or produce, it consumes or produces at a loss; at least to itself. But a forced production or consumption is the end, and has always been the effect, of most commercial regulations; which are accordingly useless, at best, and, for the most part, merely mischievous. The mischief, however, is not confined to the actual operation of such regulations as we speak of: when once imposed, they create a mass of artificial interests, whose existence depends on the system from which they sprang, and which are swept away, whenever a change of circumstances or the prevalence of the general interest over that of the few, gives birth to a change in the commercial system. Here, then, is a second source of

evil from the forcible interference with the natural course of trade. To revert to our former supposition; if the French silks, after a long prohibition, were suddenly admitted, without restriction in respect to quantity, it is clear that British capital of the value of 1,000,000*l.* would be rendered temporarily useless, and must be transferred to other employments, before it could be rendered serviceable for the purposes of production. But a sudden transfer of a large amount of capital is attended with great and inevitable loss to the proprietors: the persons employed by it are unable at a short notice to apply their labour to other trades; they may want the requisite skill, and opportunities may not occur. This effect of the repeal of injurious systems of prohibition has been urged by many as conclusive, with regard to all attempts at abolishing them; the evil it has been said is certain, the advantage doubtful. But the objection is pushed too far: the evil contingent on a sudden abrogation of such systems is no proof that they should never be changed; it only proves the necessity of caution in effecting the alteration, a necessity not more obvious in this, than in other instances, wherever established interests are submitted to the hand of reform. The species of caution which is called for in commercial reforms relates chiefly to the time allowed for their accomplishment. We have been taught by such multiplied experience, that a *gradual* change is commonly meant by politicians to cloak the design of no change at all, that the phrase has justly grown into disrepute; but a gradual reform, in commerce, is, for the most part, the reform to be desired. An interval must be secured for the parties, the labourer and the capitalist: for the labourer, that he may turn his hand to a new employment; for the capitalist, that he may choose an opportunity for transferring his stock. Time, however, is all that can be demanded; every thing beyond is a boon granted to the individual, at the expense of the community.

Such, then, are the consequences of a restrictive system of trade: a system which prevents those countries, which are submitted to its influence, from enjoying the full measure of productiveness, which their separate advantages might be made to yield; which divides the community of each country into two classes, the con-

sumer and the monopolist, each interested in the other's loss; a system, which bolsters up a bad principle with an infinitely vexatious detail of duties, drawbacks, and prohibitions, and, what is worst of all, which is established to the advantage of nobody, and the disadvantage of almost all the world. Bad as this system is, it has hitherto prevailed in almost every department of British commerce; it has eminently governed the colonial policy of our country, and in our opinion, as well as in the opinion of almost all who are competent judges, its effects on that branch of trade have corresponded with the badness of its principle. It has now, more especially with respect to the West Indies, struck root so deeply, the sinister interests it has given birth to are so firmly established, that, however obvious its bad effects may be, there is no department of our commerce, with the single exception of the corn trade, in which every proposition for reform is encountered by a more strenuous opposition.

But, however vehement the struggles of the West India interest for the preservation of their exclusive privileges; there is perhaps no instance of monopoly of less utility to those, for whose protection it is supposed to exist, or more susceptible of speedy and uninjurious alteration. We propose to shew the truth of this remark, by a rapid review of the extent and nature of the protection afforded to their principal export.

The West India interest demands, and has long enjoyed, the right of supplying the home market with their peculiar produce; to the exclusion, if necessary, of the produce of all other countries. This privilege has been secured to them by an absolute prohibition of the produce of many parts of the world, and by the imposition of higher duties on that of others, and more particularly of the East Indies, than are levied on their own. In consequence of their carrying trade being limited to British shipping, they have been further favoured with certain drawbacks on such of their produce as is re-exported from the ports of Great Britain. On West India sugar the duty is 27*s.* per cwt.; on East India 37*s.*: the duty on West India coffee is 6*d.* per lb.; on East India 9*d.*\* But this is not all: on the exportation of West India refined sugar not

\* Vide Hume's Custom Laws, pp. 246, 251.

only is the duty returned, but an actual bounty is paid, amounting to 3s. per cwt.\* As these bounties are not merely nominal, since large quantities of sugar (the staple production of those colonies) are annually re-exported, exceeding one million sterling in value according to the official rate of valuation†, it will be readily perceived that the present consideration is one of paramount importance. The West India sugar re-exported for the foreign market is exposed to the competition of the East India growers, and is nevertheless disposed of to the great amount we have mentioned. Hence it appears that West India sugar, though charged with the additional expense of its transit through this country, is enabled, by a bounty of only 3s. per cwt., to compete with the produce of the East Indies. Whether this 3s. more than covers the cost of the extra transit through the ports of this country, or not, we cannot venture to determine; that question will be practically settled by the operation of Mr. Huskisson's bill, by which, under certain restrictions, a direct traffic is permitted to be carried on between our West India colonies and the continent. But the fact is amply sufficient to prove that the present inequality between the cost of growing sugar in the East and West Indies is not so greatly in favour of the former, if, indeed, it be in their favour at all, as the terror of the West India proprietors has induced them to believe. Precisely the same reasons may be urged, to shew that the dread of competition from the same quarter, in the British market, is no less unfounded; and, pushing our conclusions onward another step, we feel no difficulty in deciding, that the duties on East and West India sugar should be equalized at the present moment—a moment peculiarly auspicious, since justice may be done to the community, and, in the long run, advantage conferred on the West India proprietor, without inflicting any instant evil, which seems worthy to be taken into account. A great step might thus be made towards opening the colonial trade: by widening the field of supply, a greater tendency would arise towards the equali-

zation of prices between the growths of all the sugar countries; and thus, beginning with the East Indies, we might end, by a succession of similar measures, by throwing open our market to the world.

It has, however, been objected that the present equality of price arises from the demand for sugar exceeding the supply, and that the increasing produce of the East Indies, will shortly enable them to undersell the West India planter. Should this objection be grounded, still we cannot recede from the opinion, that the present is eminently the favourable opportunity for opening the trade: at this time, prices are nearly balanced; the accumulation and investment of capital is a slow process; and before the increased produce of the East Indies can be brought into the market, the West India planter will have had time and opportunity for the gradual transfer of his capital, should that be necessary, to the cultivation of coffee and wheat. If this be deemed a hardship, it is one which cannot be relieved by Government, without inflicting a greater injury on the community, than would be averted from the planter. He complains of being gradually reduced to employ his capital in a less profitable species of production; but when it is considered that the higher profit is obtained from a forced overcharge on the consumer, it seems to us that the legitimate objects of commerce are obtained, and justice satisfied, if all possible facilities be afforded, whether by granting time, or otherwise, for effecting the transfer.

We may here stop to observe that, in the midst of this outcry in defence of the West India interest against the growers in the East, and the consumers at home, the interests of the inhabitants of our East India possessions are scarcely noticed. Injustice and inconsiderateness of the Government and the British people are spoken of as being solely exercised to the injury of the West India colonist. But is all the injustice on one side? Have the East Indians undergone no hardships, and are their interests of no account in the detail of our commercial policy? Have they suffered from no transfer of capital? and have they been deprived of no favourite branch of commerce? What has become of their cotton manufacture? The machinery of Great Britain has enabled her to arrive at the extraordinary result of competing with the East India manu-

\* Vide Hume's Custom Laws, p. 333.—A higher bounty is paid on some sorts of extra-refined sugar, amounting to 19s. per cwt.; but as sugar loses weight in the process of refinement, it is not easy to ascertain what part of this sum constitutes a bounty.

† Finance Accounts for the year ending Jan. 1825, page 296.

facturer in his own market, and in his own staple production, notwithstanding the double carriage, and the extreme cheapness of Eastern labour: manufactured cottons, of the value of one million sterling, are annually exported to the spot where the raw cotton is grown, and this branch of manufacture, which was the great source of employment of the East India labourers, is now nearly destroyed: but as their interests are a subject of no concern with any class in the possession of power, their complaints were not heard, or, if heard, were utterly disregarded.—It is reserved for the influential proprietary of the West Indies to force their remonstrances upon the public; and the bare apprehension, on their part, of countering competition, attracts more attention in the legislature, than the complaints of the East India manufacturer, when his market was destroyed.

To return to the West India colonies. Such being the nature, and so small the real efficacy of the protection afforded to those colonies by the monopoly of the British market; it seems difficult to deny the expediency of withdrawing it altogether, within a very limited period of time. This, however, formed no part of Mr. Huskisson's measure; nor do we venture to blame an omission, which was probably not so much the effect of choice, as of necessity. The clamour excited by the proposal for equalizing the duties between the West India and Mauritius' sugars—a mere straw thrown up, to show which way the wind blew—gave sufficient indication of the species of opposition to be expected to any attempt upon the vested rights of the West Indians. It was probably deemed more prudent to begin by concessions to the colonies; a mode of operation against which no objection can be raised, as we confer the benefit without loss or danger to ourselves.

Hitherto our views have been confined to the principle (for we readily give him credit for acting on one) of Mr. Huskisson's measures;—the leading idea which has guided his past policy, and which should direct his future operations with respect to our colonial trade. We are now to consider the practical specimen of his system, exhibited in the act of last session, and its probable results.

The career of free trade with the colonies is begun by an act of concession. It is proposed (with certain exceptions)

to admit a free intercourse between all our colonies and other countries, for the importation of every produce or manufacture of such countries, and the exportation of all colonial produce in return. The principle of this measure, we shall not attempt to question; it cannot be questioned by any man, who admits the theory of free trade. But the principle is clogged with a proviso "that the importation of foreign goods into the colonies shall be made subject to such moderate duties," in the West India ports, "as may be found sufficient for the fair protection of British productions of like nature."

The latter part of this proviso is so incongruous with the plan of a free intercourse, that we no longer recognize the principle on which the measure appeared to be grounded. The system seems to be built on the mongrel idea of combining protection to the home trade with the liberty of importing foreign goods into the colonies. Whether this be possible at all, or at any rate in the manner proposed, will appear from an analysis of the effect of a duty on the importation of foreign commodities.

The operation of such a duty must be, 1st, either wholly to exclude the foreign commodity; or, 2nd, to admit it, to the exclusion of the home produce; or, 3d, to admit both, on terms of equal competition.

We will begin with the last of these cases. Supposing the duty to be so accurately adjusted as exactly to balance the superior facilities possessed by the foreign trader in the production of his article, that it shall come into the market at the same price as the commodity produced at home; it may appear, at first sight, that the foreign and home trader would exactly divide the market: since it would be indifferent to the consumer from which of the two he purchased, when both sold at the same price. That, however, would not be the fact. A duty so imposed, is tantamount to an entire prohibition of the foreign article. If, under these circumstances, the foreigner should divide the market, it must be at the expense of the home trader's custom, who would, in consequence, be compelled to withdraw half his capital from the trade. This, however, would not occur; since the only reason which could induce the home trader to withdraw any portion of his capital, must be;

the occurrence of a glut in the market, in consequence of which, the price of the commodity would fall below the cost of production, and the average profits of stock would no longer be obtained in that branch of trade. But this occurrence is excluded by the supposition. By the imposition of the importation duty, the total charges on the foreign trader in producing his commodity are equalized with those of the home producer. He cannot, therefore, sell at a lower price; he is prevented from glutting the market: the same motives, in short, which would alone induce the home trader to withdraw any portion of his capital from the particular employment in question, would prevent the foreigner from entering into a competition, which could only be injurious to both. Such a duty, then, though a duty in name, is in fact a prohibition. There is no difference in the result between such a duty and one conceived in the terms of the first case;—a duty, that is to say, imposed with a view to the direct exclusion of foreign produce.

We will now take the remaining case—that in which the duty on the foreign article is so diminished as to enable the foreigner to compete with the home trader, by underselling him; the only mode in which such a competition can exist. What is the consequence? The imported article will forthwith be brought into the market, and sold at a permanently diminished price; and as there cannot exist two prices for the same commodity in the same market, the home producer will be altogether excluded, and must transfer his capital to some other trade, unless he can afford to take lower profits than before. That, however, will not be in his power, unless he were previously obtaining more than the ordinary rate of profit; a circumstance which can nowhere occur for any length of time, and which assuredly has not been the case in our mercantile traffic with the West Indies. The conclusion is (and it admits but of little qualification), that with respect to the trade in manufactured produce—for we must except *the produce of the soil*, which is regulated by different laws—there is only a choice of alternatives; a choice between absolute freedom and absolute prohibition. Either the foreigner will undersell the home trader, or he will not: if he undersell him, it matters not how much, the home trader

must relinquish his business; if he do not, he will not enter the market at all.

To apply this principle to the present case.—Mr. Huskisson, by his proviso, must intend one of three things:—increase of revenue; protection to English manufactures; or relief to the colonies. Increase of the revenue is professedly no part of the present plan. We have shewn that protection to the British manufacturer, is, in fact, exclusion of foreign goods; and that is precisely the reverse of Mr. Huskisson's avowed intentions. The operation of this part of the measure will depend, therefore, on the amount of duties imposed on the importation of foreign goods into the West India ports. If the duties protect the British manufacturer, the measure will be nugatory; if not, it will effectually relieve the colonies to the extent of its provisions. We trust, however, that the majority of the duties will not have the effect of protecting the British manufacturer: this, being a pure matter of detail, it is not within our competency to determine; but we hope, with Mr. Huskisson, that his regulations will prove beneficial to the West India planters, and we shall not fail to ask in return, their consent to a more equal apportionment of duty on East and West India produce, for the benefit of the British nation.

We are willing to make large allowances for the difficulty of Mr. Huskisson's situation; we would not, to use the good-humoured remark of the Chancellor of the Exchequer, "ride the willing horse too hard." With so many of the great interests of this country, all pressing for exemption from imaginary dangers, on his arm, we doubt not that Mr. Huskisson has a difficult game to play. To these embarrassments we readily attribute much of the apparent inconsistency of his measures: but we lament that such should be the influence of the manufacturers, or the weakness of the administration, that this measure for colonial relief, should be enervated or encumbered with the schedule of protecting duties; more especially in the face of considerations which could only be overlooked or unappreciated in the panic engendered by sinister interests.

Granting even that certain foreign goods may be justly excluded from the ports of the United Kingdom, for the protection of domestic manufactures;

these colonies form so small a portion of the market for British goods, that the admission of foreign competition there, would scarcely be perceived at home, however ruinous it might prove if extended to the kingdom at large. The injury which the British manufacturer would sustain from a removal of all restriction on the intercourse of the colonies with foreign countries, is a groundless exaggeration of panic terror, equally in defiance of principle and experience. The emancipated nations both of North and South America derive the great mass of their imports from Great Britain, where they obtain them at the cheapest rate; and so long as Great Britain shall be able to sell them her manufactures *cheap*—the only lasting or legitimate monopoly—so long will she continue to supply them. But the condition of the West India colonies is the same as that of the continents of America: a restriction, therefore, on the importation of foreign articles into the colonial ports, in favour of our own manufacture, is principally nominal, and a removal of it would but slightly alter the established course of trade. If the restrictions have any effect, it can only be to the detriment of the colonies; and it is not easy to put a case in which they can be made to suffer, which will not ultimately affect the mother country. In this respect we agree with Mr. Huskisson; who observed, that “he came clearly to the conclusion, that so far as the colonies themselves were concerned, their prosperity was cramped and impeded by the old system of exclusion and monopoly; and he felt himself equally warranted in his next inference, that whatever tended to increase the prosperity of the colonies, could not fail in the long run to advance, in an equal degree, the general interests of the parent state\*.”

In spite, however, of this deliberate observation, when it was afterwards objected to Mr. Huskisson, that the schedule of duties appended to his measure was at variance with the principle he professed to act upon, what was his reply? We will not charge him with deliberately entertaining the opinion it conveys; but we cannot help quoting his answer, as a specimen of the parliamentary method of substituting words for ideas, where something must be said, but where the

only thing that can be said to the purpose, must be kept in the back ground. In reply, then, to the objection, he observed, that “if he placed the colonies on a footing with the United Kingdom, “he saw no fair ground for complaint\*.”

By this sleight of tongue, which has been called “the fallacy of *false consolations*,” Mr. Huskisson would persuade the colonists that the situation of Great Britain forms a *maximum* of felicity, which other countries cannot reasonably wish to exceed.

We shall not enter into that question here, which, indeed, we are glad to believe is now a work of supererogation†. We shall be satisfied with observing, that the situations of the colonies and Great Britain is *not* the same. It is true, that foreign manufactures are excluded from the ports of both by duties of the same kind; but the effect, however similar in appearance, is widely different in fact. Were the ports of this great manufacturing country thrown open to those foreign goods, in which she principally abounds, none would be imported; by her capability of underselling the foreign producer her inhabitants would still have an unlimited supply, at a price unincreased by any duty. The West India colonies, on the contrary, are destitute of manufactures. Such as they stand in need of, they import from Great Britain; or now, we suppose, in some instances, from foreign countries: but in both cases charged with duty‡.

Here then is the distinction: so far as it affects the British consumer, the duty is nugatory; in the colonies it is paid to the last penny.

But there is a further qualification of this part of Mr. Huskisson's bill, which affects us with more surprise; inasmuch as it can only be imputed to mistaken views of the subject, or to the influence of a low national jealousy, of which the existence could not have been suspected in the minds of those distinguished persons who control the finances and commerce of our country.

The first measure of the present ministers towards the emancipation of the colonial trade§ was followed by one of an opposite tendency from the American Government, sufficiently foolish in itself,

\* *Ante*, p. 294.

† *Ante*, p. 15.

‡ Vide Hume's Custom Laws, pp. 303, 304.

§ 5 Geo. IV. c. 44 and 45.

\* *Ante*, p. 288.



but which was met on the part of Great Britain by a still stranger proceeding (considering the character of its authors)—a proceeding too, well worthy of some remark, as the principles which prompted it are still defended by Mr. Huskisson, and may be traced in the present measure.

The United States, from motives which it can answer no useful purpose to investigate, shortly after the opening of this trade, in the 3rd year of the present king, imposed an alien duty upon all British ships trading between our colonies and their ports, to remain so long as their produce should not be admitted into the colonies, as freely as that of England or Canada. The effect of this measure must be chiefly injurious to themselves; for it tends to raise the price of our colonial produce to them, without raising the price of their produce to the colonists. To ourselves or our colonies, it is a matter of comparative indifference. But what says Mr. Huskisson?

"To meet this unexpected proceeding on the part of the United States, we were driven to one of these two courses—either again to prohibit the intercourse with them altogether, or to retaliate the alien duties imposed upon British shipping, by subjecting to the like duties American ships entering the ports of our colonies. Neither of these expedients were in themselves desirable, but we preferred the latter."

Hence, therefore, it appears, that, because the United States have thought proper to fetter the importation of our colonial produce into their ports, it is our duty to clench the restriction by a similar proceeding of our own; to add an additional sanction to an injurious measure; to make what was bad before, still worse. Is the measure introduced by way of punishment? That is, certainly, a reasonable aim. The end of punishment, however, is not revenge; it is the prevention, or removal, of an evil. But if an evil can only be removed by the endurance of an equal or greater evil, the end of punishment is not attained. Yet such is the effect of our conduct, in the present instance. We complain, that the Americans will not receive the exports of our colonies, which is one evil; whereupon we deny ourselves the advantage of receiving theirs, which is another evil; to which may be added, that by stimulating animosities, and giving an air of importance to these measures of mistaken policy, by putting ourselves in a passion—we

tender the removal of the original subject of complaint more difficult than ever; and this is a third evil, which when added to the other two, leaves us in just thrice as bad a condition as we were placed in by the Act of Congress.

We have dwelt upon this singular step of the British cabinet the more earnestly, since the motives that dictated it are still so fresh and active, that in the very bill which forms the subject of our examination, a proviso is inserted, which prohibits this newly emancipated trade, in the case of those countries which "having colonial possessions, shall refuse to grant the like privileges to British ships," unless the king in council shall deem it expedient to dispense with this condition. If the object of the measure be commercial, we repeat that this clause is worse than useless; if political, we regard it with aversion, as a system of injurious reprisals.

We have now to inquire what is the result of the principal provision in this much talked of measure of relief—what is the actual amount of benefit which it is likely to confer upon the colonies? The answer to this question depends, as we have before observed, upon the solution of another: Are the duties on importation in the colonial ports, so moderate, as to enable the foreign exporter to undersell the British, in the colonial market? If yes (as we incline to think), we hail the measure as a happy step in the career of free trade; if no, we accept it as an earnest of some substantive measures to come, when the removal of prejudice shall have tamed the vigour of that opposition, which has hitherto so triumphantly encountered all attempts to change the system of our colonial trade.

Those parts of Mr. Huskisson's measures, the propriety of which exclude all doubt, are the act which "extends to the Island of Mauritius, the duties and regulations which relate to the British islands in the West Indies;" the provision for bonding goods; and the abolition of the oppressive fees of late levied in the colonial ports. We touch upon the first of these measures, rather with the view of exhibiting a specimen of the opposition arrayed against the liberal projects of the minister, than for the purpose of enlarging on its merits.

The situation of the island of the Mauritius was peculiarly hard. Originally a French colony, it was only at the close of the war, that it became enrolled amongst

the British dependencies: belonging therefore to no party, it was forsaken by all. Excepting its local situation, its condition resembled in most respects that of the West India islands; its produce being principally sugar, and cultivated by a slave population. In spite of the small amount of its produce, and its distance from England, the West India interests demanded, as a security against competition, the imposition of a duty of 10s. per cwt. on the sugar of the Mauritius, beyond that on plantation sugar.

This duty was felt as a peculiar grievance; for, unlike most countries in the same latitude, which may change their produce, the Mauritius is confined to the exclusive culture of sugar, in consequence of being annually subjected to hurricanes, from the ravages of which the sugar cane can alone escape. To remove this grievance, therefore, a bill had been introduced in 1824, but rejected on the ground that the Mauritius enjoyed a greater freedom of trade, than was then permitted to the West Indies. That pretence having been removed last session by the measure for opening the trade of the West India colonies, a bill was again brought in and passed, for equalizing the duties on the produce of the Mauritius and those colonies. Such, however, was the dread produced by a possibility of competition, that the advocates for the West India interest were on the alert against even this partial admission of sugar from the Eastern hemisphere.

In the course of the debate, an argument was advanced by Mr. Ellis, which affords a sample of the ease with which men suffer their opinions to follow the bent of their interests, as well of the dexterity attained by habitual practice in the art of torturing facts and language. The measure proposed was one intended for the benefit of the Mauritius' planters. But what if it could be made to appear that it was contrary to the wishes of those very persons? Such was Mr. Ellis's mode of presenting the question to the house, that, without stating that fact in terms, it would naturally be inferred from the expression. But Mr. Ellis shall speak for himself.

"He would request," he said, "his right hon. friend would have the goodness, before he brought in his bill, to lay before the house the petition of the inhabitants of the Mauritius, against placing them on the footing of a West India colony\*."

\* *Ante*, p. 292. The same observation was afterwards repeated by Mr. Bernal, *ante*, p. 300.

Mr. Ellis cannot mean that the inhabitants of the Mauritius were desirous of never being admitted to the privileges of the West India colonies, *whatever they might at any time become*: and yet it is not easy to attach any other signification to the words; for if he only mean, that the inhabitants of the Mauritius petitioned against being put on the footing on which the West India colonies stood in 1824, how does it follow that they are not desirous of being put on the same footing with those colonies, as they now stand, after the alteration effected by the present measure? Upon referring, however, to the petitions from the Mauritius from 1816 up to 1824 inclusive, we have no where been able to find any prayer against their being put on the footing of a West India colony; the direct request of all is to be put so far on the same footing, as to have the Mauritius' produce admitted on the same terms as the produce of the West India plantations. The following is a specimen of their language:—

"Une faveur que nous osons réclamer de votre A.R., est la réduction des droits supportés en Angleterre par les denrées provenant de notre sol, au même taux que payent les objets de semblable nature provenant des autres colonies de la Grande Bretagne."—(*Papers relating to the Colonial Trade of Mauritius*, p. 14.)

Was Mr. Ellis misled by the title of the first petition of July 24, 1816, "*against being subjected to the regulations of the colonial trade*?" Had he read that petition, he would have seen that its prayer was simply that the prohibition against trading with other countries, then in force in the West India colonies, should not be extended to the Mauritius.—The real question, however, is not merely, as Mr. Ellis seems to take for granted, whether the admission of Mauritius' sugar into the British market, would be prejudicial to the West India proprietor; but (omitting the consumer's interest) whether the injury sustained by the West Indies, from its admission, would be greater than that inflicted on the Mauritius, by its exclusion. Let the question be put in these terms, and we have little doubt of the result; for we are fully convinced of the truth of Sir Francis Burdett's observation, "that it can be no way advantageous to the country, that the interests of any class of men should be bolstered up by exclusive privilegest."

The abolition of the heavy fees exacted

† *Ante*, p. 293.

in the colonial ports, is a measure of unmixed utility; as is also the provision for extending to certain of those ports the regulations of the warehousing system. So long as duties shall remain, that system is indispensable. So soon as the demand for any article of foreign produce rises, a rise of price immediately ensues; the prospect of high profits imparts an instant stimulus to exportation on the part of the foreign trader, which is as generally followed by a glut of more or less duration, and a rapid decline of prices in the importing market. Fluctuations of this kind are more peculiarly apt to occur in restricted markets; and the same causes which at one time produce a dearth, at another create a glut of commodities.

In such a case, should the importer arrive too late, or overstay the market, an immediate sale of his goods could only be effected at great loss. Gluts, however, are only temporary; and should he possess the means of holding over till prices take another turn, he may save himself from ruinous loss, or ultimately re-imburse himself altogether. But where a duty enters largely into the cost of his commodity, and is levied at the time of importation, an immediate sale is frequently a matter of necessity. By this privilege of warehousing his goods, that necessity is prevented, whilst the payment of the duty is secured. By permitting him to bring his goods into the market, in such portions and at such times, as may suit his convenience, paying the duty as they are taken from the warehouse, the interests of all parties are consulted. Not only is the revenue secured, and a more regular and agreeable supply afforded to the consumers; but the scope of those reverses is greatly narrowed, by which the most feasible speculations are too frequently attended, in consequence of rapid alterations in price.

The advantages of this part of the bill are so fully appreciated, that further observation is unnecessary. So much, in this respect at least, are we improved since the days of Sir Robert Walpole.

Whatever may be their efficacy, it is plain that the measures of last session afford a hope of beneficial change in our Colonial system. When, however, we speak of change, it is but natural to ask, what change we purpose to effect? The avowed object of Mr. Huskisson is a change from a system of reciprocal mono-

poly, to one of entire freedom of trade: an highly useful and laudable object for a British minister to profess and undertake; and still more so, to accomplish.

But is this the limit of improvement? When all this shall be effected: when the timber of the North of Europe and of Canada shall enter our ports on the same terms, and the sugars of the East and of North and South America shall compete in our markets with those of our West India possessions: when the benefit supposed to be derived from the monopoly of the colonial trade shall have been exchanged for the privilege of unrestricted commerce with all the world—what advantages will then be derived, and what evils suffered from the remnant of the colonial system?

On the side of gain, the advocates of the colonies insist chiefly upon three points: Colonies, say they, afford the means of increasing the mercantile, and thence the naval marine of England; they furnish a receptacle for our delinquent, and a refuge for our pauper population.

On the side of loss, all that need be said against them is included in one word: *Expense*.

The object is, to retain the benefit, and discard the evil.

With respect to the first advantage—the encouragement of shipping—that is sacrificed, when the trade is opened. It cannot, therefore, be properly considered as an item in the present account\*.

With respect to the advantages derived from our colonial dependencies, as receptacles for convicts, and drains to the surplus of our population; in whatever degree they may be entitled to the name of advantages, they are chiefly, and may be exclusively, derived from our smaller and less expensive settlements. With respect to the loss, in the shape of expense, that is chiefly incurred in maintaining the larger colonies. All the gain may be derived from New Holland; all the loss is endured in Canada and the West Indies.

How then would the question stand with regard to Canada and the West Indies?

In every respect of trade or finance—in whatever concerns the advantage of this country—our relations with those colonies would resemble the intercourse between ourselves and independent countries.

\* See post, Article "Navigation Laws."

The difference would only consist in our bearing a heavy part of the expenses of their government: a difference solely to our disadvantage. If our commercial intercourse with Canada were the same as with New York, why might we not as well consent to pay half the taxes of New York as to defray the charges of governing Canada?

It would take us too long to enter into a statistical account of the expenses of the colonies, although it would be useful to ascertain how much more is paid towards governing them by Great Britain, than by themselves. There is no direct account of these expenses before parliament; nor is there any method of ascertaining them, but by a laborious selection of different items from the Ordnance, Commissariat, and Naval accounts, which must be added to the papers nominally containing the account of the civil and military expenses of the colonies, but which only present a small part of the latter.

It has been computed that the Canadian provinces alone have already drained this country of between sixty and seventy millions\*; and when it is considered that this sum has been deducted, year by year, from the income of the British people, forming a tax upon *their* profits, a check to *their* accumulation, and a motive for the transfer of *their* capital to other countries, for no gain to them, but to their loss; it will be thought strange that this system of waste should have been suffered to exist so long: although, when it is further considered, that the whole of the immense patronage, produced by this annual expenditure, is thrown into the hands of the British government, this astonishment will probably subside, and the reasons for retaining, the danger of attacking, and the difficulty of reforming a system uniting so many adverse parties, and supporting such powerful interests, will be more distinctly seen and acknowledged.

Here then is a point for attack. The liberal portion of the ministry have declared for an ultimate free trade with Canada; we say it should be ultimate *emancipation*. The public mind should be familiarized with this idea. We are now paying a heavy tax, in the shape of an artificial price, on the bad timber of that province, and probably half a million a year for the mischievous patronage of appointing its governors, generals, and judges. It is to

our advantage to get rid of this burthen, honestly. As much caution, therefore, as may be needful—or, to be on the safe side, even more; but let the burthen be fairly removed.

The Canadians are fortunately quite competent to govern themselves, and they are far removed from the danger of hostile aggression on the part of other states. They are not in the condition of the West Indians, with half a million of slaves at their throats, and do not, therefore, stand in need of the same protection. They have no peculiar interests to be disturbed, and have no need of the same indemnities. Time, also, the great element in all plans of extensive change, is here a matter of less serious consideration. The object may be safely and usefully executed, and that without any long delay. In short, there is no instance in which the principle we have maintained in the preceding pages, is of so easy attainment as in this: had we pursued this policy towards our former American colonies, we should have spared—as we possibly may do, in the present instance—the loss of much blood and treasure, and averted the hostility which has so lately ceased to exist between ourselves and the American states. It was well said by Mr. Baring, that “It was time for government to consider, at what period of maturity they would be fairly and honourably ready to allow these colonies the benefit of a separate system; and whether it would not be wise and dignified for Great Britain to do early and liberally that, which she might be compelled to do in a few years hence, in a very different manner.”

### *Negro Slavery.*

ALTHOUGH the question of Negro Slavery was not among the most prominent topics of discussion in the last session, we have no doubt of its becoming a leading subject in the next. The zeal and activity of the abolitionists, their ill-concealed distrust of the intentions of the government, and the alarm and anger of the colonists, keep the public mind so alive, that the first zealot, ambitious of succeeding to Mr. Wilberforce's mantle, may easily succeed in reproducing the agitation of 1823 and 1824. We shall, therefore, make no apology for introducing the subject in a more sub-

\* See Edinb. Rev. vol. xlii p. 291.

† *Ante*, p. 294.

statistical shape than that, which it assumed in parliament, last year.

Before entering into the question, we must remind our readers of the course which it has taken since the views of the abolitionists have been directed to the emancipation of the slaves; for it is not until of late that their attention has been extended from the slave-trade, to the subject of slavery itself. In 1825, Mr. Wilberforce, having strong reasons to suspect that Negroes were surreptitiously introduced into the colonies, proposed that the slaves should be registered, in order to ascertain whether any new ones were imported or not. This measure produced violent heats amongst the planters; and, in some of the islands, fatal commotions amongst the Negroes. In Barbadoes, the slaves, who were deluded by the notion that instructions had gone out to concert measures for bettering their condition, which were resisted by the whites, rose and committed great devastations, and were not put down without the loss of more than a thousand of their lives. The question slumbered until 1822, when the House of Commons, at the suggestion of Mr. Wilberforce, addressed the Crown, requesting that precautions might be taken that the emigrants of the Cape of Good Hope should not cultivate their grants of land with slave-labour. This motion was the signal for the abolitionists to resume their efforts. Accordingly, in the next session, the tables of the two houses were covered with petitions for the extinction of slavery, some of which were couched in the most intemperate terms. The subject agitated the public to an unprecedented degree, and was brought before the House of Commons by Mr. F. Buxton, who proposed the abolition of slavery on the ground of its being opposed to Christianity and the Constitution: but his motion was superseded by the following resolutions adopted at the suggestion of Mr. Canning:—

“That it is expedient to adopt effectual and decisive measures for meliorating the condition of the slave population of His Majesty’s colonies.

“That through a determined and vigorous, but at the same time judicious and temperate, enforcement of such measures, this house looks forward to a progressive improvement in the character of the slave population, such as may prepare them for a participation in those civil rights and privileges which are enjoyed by other classes of His Majesty’s subjects.

“That this house is anxious for the accomplishment of these purposes at the earliest

period that may be, consistently with the welfare of the slaves themselves, the well being of the colonies, with a fair and equitable consideration of the state of property therein.”

The administration followed up this decision, by sending the resolutions to all the colonies, with a circular letter addressed to the different governors, directing them to *recommend* to the colonial legislatures to take immediate measures for carrying them into effect. The strong disposition which the two Houses shewed in the course of their proceedings to interfere in the concerns of the colonies, and the not unreasonable apprehensions entertained by the planters, that insubordination might be excited amongst the Negroes by a knowledge or misrepresentation of the views of parliament, with respect to the ultimate extinction of slavery, excited very violent feelings throughout nearly all the colonies. In Jamaica, the Assembly threatened to oppose interference by force, and even to throw off the authority of the mother country. In Barbadoes, the resistance to the Assembly, though expressed in a more moderate tone, was equally decided; but the violent disposition of the inhabitants displayed itself in demolishing the meeting-house of a Methodist missionary, named Shrewsbury, who was driven from that island, and his congregation dispersed in defiance of the proclamation of the governor. In Demerara, the Court of Policy refused to take any measures; but the slaves, actuated by a vague opinion that the government had recommended the adoption of a plan for their emancipation, rose in large numbers, and were not quelled until after much blood had been shed by the hands of the military and the executioner. Another Methodist missionary, named Smith (who certainly appears to have entertained an obscure suspicion that something was in agitation amongst the slaves—a suspicion which he did not communicate), was tried before a court martial, and, in defiance of every principle of law and justice, condemned to death. The sentence was afterwards commuted by the King: but Smith died in prison, under circumstances of great cruelty, before advice of the commutation reached the colony. Elliott, another missionary,—against whom there was not a shadow of suspicion, was imprisoned for paying a visit to Smith, and afterwards abandoned his mission.

On the 18th of March, in the following

lowing year (1824), the subject was again brought before parliament by ministers, who stated their intention, after what had occurred, to try their plan of improvement in one of the conquered colonies, which were governed immediately by the Crown; and for this purpose they selected Trinidad. The regulations were afterwards to be extended to Demerara, Berbice, the Cape, Mauritius, and St. Lucia, with variations adapted to the peculiarities of the Dutch and French laws. With regard to the intentions of government towards the rest of the colonies, which are administered by their own legislatures, the ministers stated that they should continue to admonish them to take the steps recommended; and if their admonition failed, they should resort to compulsion by vexatious taxation. But they declined to agitate the question of direct interference.

The regulations designed for Trinidad were as follows:—The procurator syndic of the *Cabildo* of the town of Port Spain, was confirmed in his ancient office of protector and guardian of the slaves; the commandants of the several quarters of the island were declared his assistants; and notice of all actions and suits against slaves was required to be given to the guardian, who was obliged to attend the trial. All markets were to be discontinued on Sunday, and the employment of slaves, between sun-set on Saturday and sun-rise on Monday, was prohibited. The whip was not to be carried as an emblem of authority; the practice of flogging females was abolished, and imprisonment or the stocks substituted; no male slave was to be punished for any offence until twenty-four hours after its commission; and not more than twenty-five lashes were to be inflicted in any instance, in one day; no second punishment to be ordered until the lacerations of the previous flogging had disappeared; and no punishment whatever to take place unless one person of free condition were present, besides the person by whom it should be performed. A ruled book was to be kept on every estate, in which the owner or manager was to record the punishments exceeding three stripes, the number of lashes inflicted, the reasons for the punishment, and the names of the persons attending it, a copy of which was to be regularly returned upon oath to the guardian of slaves,

through the commandant of the quarter. To encourage marriages, it was determined, that if two slaves obtained the consent of their master or masters, and produced it to the guardian of the slaves, he should give directions that the marriage should be solemnized, according to the rite of the Church of England, or such other Christian church as should be most agreeable to the parties. Should the master of one or both of the slaves refuse his consent, the guardian, on application from one of the slaves, should summon the master or overseer before him to hear his motive; and if it appeared unreasonable, or if his conduct were arbitrary, the guardian might authorize the marriage, notwithstanding such refusal. To prevent the disunion of families, it was decided that, in the sale or transfer of married slaves, husband and wife should not be separated, but should be sold in one lot, and transferred to their new owner, with their children. The property of slaves, in land and goods, was secured to them, and they were enabled to dispose of it by bequest; they were also enabled to sue in their own names, in regard to their property, and to lay it out at interest in Savings Banks. The expense of registering manumitted slaves was to be paid out of the revenue of the island. The slave was to have a right to purchase, not only his own freedom, but that of his wife, child, sister or brother. If any difficulty should arise about the price, the chief judge was to arbitrate between the parties. The testimony of slaves was to be received, provided the slave could procure a certificate from his minister, that he understood the obligation of an oath, which was to be recorded by the guardian of slaves; but not in civil cases, where the interest of their masters was directly concerned, nor in criminal cases, affecting the life of a white.

These regulations, which embrace the same objects as were recommended in Lord Bathurst's circular to the other colonies, were embodied in an order of council, and promulgated in Trinidad, on the 24th of May, 1824; and began to be acted on, on the 24th of June. Great resistance was every where opposed to the order, and a remonstrance was addressed to the governor, Sir Ralph Woodford, to suspend it; but in vain. In Jamaica, some disturbances took place amongst the slaves after the last session of the Assembly, on which

occasion twenty-four slaves underwent the punishment of death. The House of Assembly, in a report, attempted to qualify these disturbances as insurrections; but after a careful perusal of the trials of all the slaves, we can come to no such conclusion\*. In July 1824, Lord Bathurst addressed a second circular to the governor of Jamaica, and the governors of the other colonies, requiring them to recommend the Trinidad order to the different legislatures, and at the same time announced that two bishops would be forthwith sent out. The Jamaica Assembly, still further exasperated, refused all amendments in their slave-code, and rejected, by a majority of thirty-four to one, a bill for the admission of slave-testimony; and public meetings were every where held in which the most violent and indecent language was indulged in against the parliament. In Barbadoes and Tobago, a shew was made of amending the slave-laws; but the new laws, in effect, contain no material improvements. There is no intelligence from the rest of the West India colonies of any subsequent change having taken place, in any respect†. Two bishops have since been sent out according to Lord Bathurst's promise, one for Jamaica, and the other for the Leeward Islands, who are to have the control of the church clergy.

In the meantime, in the session of 1824, the case of Smith the missionary was brought before parliament; but without effect. Last session, the case of Leceane and Escoffery, two free persons of colour, who were sent out of Jamaica by the governor, without trial, as aliens, on the alleged ground of their having maintained an improper correspondence with Haiti, and with conspiring to supply the slaves with arms, was also brought forward; and it was arranged that the commissioners in the West Indies should make inquiries into the business, and that a committee of the House of Commons should be appointed, next session, to make a proper investigation afterwards. The case of the missionary, Shrewsbury, was afterwards brought forward and canvassed in the House of Com-

mons; when the House declared that a scandalous and daring violation of the law had been committed on that occasion, and that they would assist the government in securing protection and toleration in all the colonies. During the latter debate a leading abolitionist (Mr. Brougham) announced his intention of bringing in a bill, next session (in case the colonies did not change their conduct); to provide that Negro evidence should be admissible *quantum valeret*; to prevent the use of the whip in the case of women, and as a stimulus to labour; to attach the slaves to the soil; and to prevent the holders of property in the colonies from filling public offices there.

We have always believed, that if the enmity and intemperance, which the West Indians and the friends of the Negroes mutually exhibit towards one another, were suspended, it would be found, that the difference of their intentions is much smaller than either party conceives, at present. The design of the abolitionists is to cure the confessedly enormous evils of slavery, by emancipation; but if they be asked whether their object is to be effected immediately or by degrees, none but the most imprudent, and the least trusted among them, will pronounce for immediate enfranchisement. On the other hand, it is by no means a love of the institution of slavery which actuates the West Indians. If it could be shewn, that their estates could be cultivated after its abolition with the same advantage as at present, they would readily abandon it; as it is, in fact, attended with great danger and inconvenience. But since the evil was not created by themselves, for their particular interest, they maintain that they ought to be indemnified for all losses which could be traced to a change; and that they ought to be especially satisfied that their existence would not be endangered. The abolitionists themselves cannot deny the justice of these claims.

One of the main objects, therefore, in any plan for emancipation—after providing for the personal security of the West Indians—must be to prevent their suffering by the transmutation of slave into free-labour. If such transmutation operate slowly, we cannot see that their interests would be entitled to consideration; as they would have time to accommodate themselves to the change: but

\* Papers relating to the Manu-mission, &c. of Slaves, 1822-1824. No. 66. Ordered to be printed, 1 March 1825.

† See papers laid before parliament in explanation of the measures of government for meliorating the condition of the slaves, 1825;—and additional ditto, 1825.

If it produce immediate bad effects, they may justly call for indemnity, in proportion to the suddenness with which the change shall have been wrought.

Although many strong facts have been adduced, to prove that cultivation can be carried on most profitably by free labour; it will be found, on a close scrutiny, that they are not applicable in the present state of the West Indies. It is indisputable, that—man for man—a slave working from fear, will not accomplish so much labour in the same time, as a free-man working from the expectation of gain; and, consequently, although the maintenance, wear and tear, and other cost of a slave, should amount to no more than the aggregate of a free man's wages, the work of the latter will be the cheaper; because there will be more of it. That there must be other principles in operation, is manifest from the planters uniformly persisting in employing slaves: nor will it be a sufficient answer to this objection, to state, that the planters are either obliged to do so, or lose the value of the slaves; for, in that case, the price of the latter would have permanently fallen, instead of remaining steady, or, at least, retaining its proportion with the rest of colonial capital. A distinction may be taken between the amount of wages which the labourer is willing to earn, and that which he is compelled to take by the value of labour in the market: the first being, of course, measured by the quantity which the labourer desires to have; and the latter, by that which his competition with his fellow labourers determines the capitalist to give. If the wages, which he is willing to earn, be earned with less labour than the capitalist wants, it is obvious that the labourer has the latter greatly in his power; it is equally obvious that, in such a case, the principle of competition does not come into operation. Hence it is impossible to decide whether free labour would be dearer or cheaper than that of slaves, without first knowing what quantity of wages the free Negro would be willing to earn.

It appears that the Negro slaves have about one day and a half out of the seven, in which to cultivate their provision grounds; and this allowance affords them time enough to raise, not only sufficient to eat, but to buy superfluities. Sir Ralph Woodford, the governor of Trinidad, in an official letter to the Under Secretary of State, dated August 3d, 1817, states,

that "they can, if they choose, with very little trouble (in the day and a half per week), raise much beyond the wants of the utmost ambition or profligacy." The Assembly of St. Vincent's, in their address, dated September 4th, 1823, state that, by cultivating their provision grounds a day and a half in the week, the slave "may not only derive a comfortable, and it may be said, independent subsistence; but a surplus, for which he can, at all times, procure a ready sale, and be thereby enabled to purchase some of the luxuries of life, which never reach the lips of thousands of the happiest peasantry in Europe." In other places, the quantity of labour required, is even less. President Boyer declares, that the soil of St. Domingo is such, that half an hour's labour a day, will raise a week's subsistence—"un sol où l'homme, qui travaille une demi-heure par jour, obtient sa subsistance pendant une semaine." M. Malouet, formerly minister of Marine and Colonies in France, who bore a special commission from his government to examine into the character and habits of the Maroons in Dutch Guiana, states, that they found one day in the week abundantly sufficient, in the fertile and genial soil of the New World, to supply all their wants†. In Cayenne, after the enfranchisement of the slaves, by the decree of the French Convention of 16 Pluviose, An II., their wages were fixed by the Colonial government, at "deux sols par jour§;" from which we must understand that the day's maintenance of a Negro could be bought for a penny English. The plantain, which requires less labour even than the potatoe, is the principal food in Guiana; and it appears, on the authority of Baron Humboldt, that land yields 133 times more food when cultivated in plantains than if sowed with wheat; and 44 times more than with potatoes. The least favourable of these authorities shows, that a Negro needs labour, at the utmost, only one day and a half out of seven, to procure ample subsistence for the week. It would be idle to suppose

\* The abolitionists have denied this fact; but at the same time they exclaim, with great inconsistency, against the impediments which prevent the slaves from purchasing their freedom, of which the means must be derived from the provision grounds.

† See Propagateur Haïtien, No. I, as cited by Mr. Stephen, in "Slavery Delineated."

‡ Brougham's Colonial Policy, vol. ii. p. 415.

§ Malenfant, Des Colonies: Paris, 1814.



that he would devote more time to labour, unless he had an immense train of additional wants to satisfy, which all parties admit do not exist at present. The main incentive to exertion, amongst the labouring class, after providing for one-self, is to support a wife and children; but the most intemperate advocates for the emancipation of the Negroes grant that they have no such motive; since the total absence of marriages amongst them, is the theme of their most violent criminations against the colonists. The climate renders the two other leading objects of labour—lodging and clothing—infinitely less necessary than in European countries. Accordingly we shall find the truth of this conclusion established by evidence in the strongest manner. All the witnesses from the British islands, whose evidence is given in the celebrated Report of the Committee of Privy Council, in 1788, concur in stating the invincible repugnance of the free Negroes to all sorts of labour. Messrs. Fuller, Long, and Chisholme, state, that the free Negroes in Jamaica were never known to work for hire; and the Committee of Council of the island, besides corroborating the assertion, add, that the free Negroes are averse to work for themselves, except when compelled by immediate necessity. Mr. Brathwaite, the agent for Barbadoes, affirms that, if the slaves in that island were offered their freedom, on condition of working for themselves, not one-tenth of them would accept it. Governor Parry avers, that the free Negroes are entirely destitute of industry; and the Council of the island add, “that their confirmed habits of idleness make them the pests of society\*.” Under the administration of Toussaint l’Ouverture, laws were passed to compel the enfranchised Negroes, to work on the plantations, by military punishment†; and Dessalines and Christophe found it necessary to resort to measures of coercion, besides providing that the labourers on each plantation should have one-fourth of the gross produce‡; and yet it does not appear that these regulations produced the desired effect. In Cayenne, it was found impossible to make the enfranchised slaves labour; and the whites, in whose possession the

capital remained, were accordingly ruined for want of hands\$. In Guadeloupe, after the decree of 16 Pluviose, the government fixed, that the Negroes of each plantation should be rewarded for their labour, with one-third of the gross produce: but the inducement was found insufficient; and at last, Victor Hugues, the governor, was obliged to resort to the guillotine and military execution; to suppress their insubordination: but even these additional measures failed, for the planters met the same fate as those in Cayenne.

If we take the longest time indicated by these authorities, and add another day to provide for the clothes and lodging, which the Negroes would be obliged to pay for themselves, in a state of freedom, we shall have the produce of two days and a half’s exertion out of seven, as the total amount of wages which the free Negro seems willing to earn. Should the planter, therefore, require him to devote the remainder of the week to labour, for hire, the Negro would fix nearly any price he liked; and accordingly, the former must be either ruined, or his returns must be of the most extravagant description, to support such an outgoing. Few considerations are necessary to shew that the latter is impossible. The present cost of a slave’s food is the value of his labour during one day and a half, out of seven, and it may be calculated that his lodging, clothing, and cost price, amount, on an average, to about a day more; making together the price of free wages, at the rate, beyond which the desires of the free Negro do not seem, at present, to extend. If the returns of the West India planter were large enough to support the cost of free labour for the rest of the week, the profits which he now puts into his pocket from slave labour, must be enormous; but we need only recall the recollection of our readers to the state of colonial affairs, during the last twenty years, to shew that the very contrary of this has taken place; the returns, in fact, having been hardly enough to support slave labour, with a very moderate profit. There is even still stronger evidence to corroborate this conclusion:—it appears, on the authority of M. Say, “*quo les manœuvriers les plus grossiers, ceux dont la capacité n’est pas supérieure à celle du Nègre esclave, se font payer, aux Antilles, leur journée, sur le*

\* Report, 1788, part iii.

† Crisis of the Sugar Colonies.

‡ Code Henri, Loi concernant la Culture. Titres I., et II.

"pied de cinq, six, sept francs, et quelque-fois davantage\*." Governor Mainwaring says, that the price of ordinary free labour in St. Lucia is six livres a day for men, and three for women; and for handicraftsmen nine livres †. Mr. Kilber, Commissary Judge at Havannah, under the Slave-trade regulations, states, that in Cuba, a common field Negro earns four reales de plata (half a dollar) a day, and is fed; the salary of a regular house-servant is from twenty to thirty dollars a month, besides being fed and clothed; and mechanics are paid from ten bits, or reales, to three dollars a day‡. These rates would make, at a medium, 90l. a year for wages, supposing them to work the whole week. The average cost of a good slave is about 80l., which at 10 per cent., on account of its being a life-interest, is 8l. per annum; add 20l. per annum for the value of the day and a half which he is allowed for his provision ground, and 10l. for clothing, lodging, &c. and we shall find a sum of 40l. for the annual out-going; instead of 90l. But, when we consider that it is nearly impossible to procure a freeman to work on the sugar plantations, at any price whatever, the difference will be infinitely greater.

Much fallacious, or, at best, useless reasoning might have been spared, if this important fact had attracted more attention. The planters have urged the *indolence* of the free blacks as an objection to manumitting the slaves, and a good deal of discussion has taken place on the question, whether the Negroes are *naturally* more indolent than the whites; as if all men were not indolent, when they have no adequate motives to exertion. On the other side, an argument has been drawn from the greater dearth of land in the free states of America, as compared with the price of soils possessing the same advantages in neighbouring slave states, to shew the superior cheapness of free labour. It does not appear that the fact as stated, rests upon much observation; but, even if it be true, nothing can be inferred from it affecting the case of the West Indies, unless it be shewn what proportion the cost of maintaining and buying the slaves

in the slave states bears to the aggregate wages of the free cultivators. Inferences have been drawn from the superior cheapness of free labour in Russia and Poland; and from the sort of enfranchisement, which the slaves enjoy in those and other countries, from the masters finding it profitable to assign them task-work in lieu of forced labour. It has, moreover, been alleged, that the wear and tear of a free servant, though equally at the expense of the master with that of the slave, generally costs less, because it is managed by himself. It might be sufficient to reply to the latter argument, that the loss in the wear and tear of a slave is taken into the account at the time of purchase, and diminishes the purchase money, like the chance of death, or the wear and tear of a machine. But it is manifest, that these minor arguments must be unimportant, so long as there is so little approximation between the cost of buying and maintaining a slave in the West Indies, and the wages which the facilities of obtaining food, and the conveniences of the climate would enable him to exact if he were set free. It has been argued, that the increase which has taken place amongst the free blacks, by birth, shews that the Negroes have the same inclination to work diligently as the whites. We have already adduced positive evidence of the contrary; but it may be added, that an increase only proves, that they work enough to procure sufficient means of subsistence to breed on, which we know, from the example of Ireland, will suffice for that purpose, when of the most miserable and limited kind. Adam Smith even avers, that a *half-starved* Highland woman will breed *twenty* children. Sugar is raised in Bengal and other parts of the East Indies, it is alleged, at a vastly cheaper rate than in the slave islands; and in the East Indies labour is free. It does not distinctly appear, that labour is altogether free in the East Indies, and if it were, its low price is the mere result of competition; unless the institution of distinct castes of cultivators and labourers may be supposed to exert some influence. According to Mr. Colebrooke, it seems, that slaves may be found in Bengal, among the labourers in husbandry, though in most provinces, none but freemen are so employed. The price of their daily labour, when paid in money, may be fairly

\* *Economie Politique*, vol. i. p. 280, ed. 1817.

† See Papers laid before Parliament, in explanation of the measures of Government, for the melioration of the Slaves, 1825.

‡ Slave-Trade Papers, class A, laid before the House of Commons, 1825.

estimated at little more than one *ana sicca*, or less than two pence sterling; and when paid in grain, it does not in the average exceed 1½d., the allowance to a strong labourer being no more than one *ana*\*. By the sugar report laid before the East India proprietors, in 1822, it appears, that according to the current rate of wages at Benares, the labourers (Coolies) employed in sugar cultivation were paid 3 piece (1½d.) per day, for holing; 2½ piece (1½d.) for manufacturing in one *pergunnah*, and 2 piece (1d.) in two other *pergunnahs*, for both processes. This it will be recollected is in Bengal, where more sugar is imported from Java and China than is exported; and consequently the wages in the latter countries must be still lower. Will a free negro of Jamaica work on a sugar estate, continuously, for twopence, or one penny a day?

The present condition of Haïti has been referred to in Parliament, to shew that the Negroes will labour when enfranchised; but a scrutiny of the few important facts of which we are in possession, connected with that island, will shew that they bear out no such conclusion. M. de Marbris states, that previously to 1788, the following quantity of sugar was annually exported from the French part of Haïti:—

French lbs.

70,227,709....Clayed Sugar,

93,117,512....Muscovadoes,

34,455,300....Molasses,

besides tafia, an inferior kind of rum. General de la Croix, who refers to "*Les Comptes fournis à l'Assemblée Centrale, par l'Administrateur Général de la Colonie,*" states, that in the year 1801, the quantity of sugar made in the same part of Haïti was only.

French lbs.

16,540....Clayed Sugar,

18,518,572....Muscovadoes,

99,419....Molasses,

and no tafia. In 1822, the total export of sugar from Haïti appears, on the authority of M. Inginac, the Secretary, to have been only 652,541 lbs., which we will suppose correct, although the extraordinary discrepancy between the accounts of M. Inginac, and the official returns of imports, both into the United States and Great Britain, gives strong reason for suspecting the veracity of that minister. The

decrease in the quantity of coffee exported in the year 1788 and 1822, is nearly as large†. In 1790, it was estimated that the population, including whites, amounted to about 600,000 souls: during the sanguinary revolution that followed, the civil wars to which it gave rise, and the exterminating attack made on the island by Bonaparte, it is supposed, that it was diminished by 200,000; and, accordingly, Bryan Edwards states it to be 400,000 in 1805. If we may believe the official account of M. Inginac, which supposes an unheard-of rate of increase since 1805, the population, in 1824, was 935,335. How then is this enormous decrease of the exports of those articles with such an immense concurrent increase in population to be accounted for? The destruction of the necessary capital, during the revolution, and the succeeding wars, cannot be objected as an answer; for it would still remain to be shewn, that the Negroes have the inclination to labour. Nor will it suffice to allege, that the Haïtiens labour in raising other kinds of produce; for, in the first place, it must be kept in mind, that sugar and coffee are the main products of the planters, and consequently that arguments which refer to other products are irrelevant; and, in the second place, if the argument would hold good, the fact itself is impossible; for it appears, by the statement of M. Inginac, that all the other exports amount to a very small proportion, compared with sugar and coffee. In 1822, according to that minister, the exports were

lbs.

Coffee ..... 35,117,894

Sugar ..... 652,541

Cotton ..... 891,950

Campeachy ..... 3,816,503

Gayac wood ..... 20,000

Cocoa ..... 322,145

It may be objected, that the produce is consumed at home; but that can be easily shewn to be impossible. If the capital re-

† By a proclamation of Boyer, dated March 20th, 1823, it would appear, that sugar is even imported into Haïti. "*Ne voyons nous pas,*" he says, "*tous les jours arriver dans nos ports des marchandises sortant des îles dont il est question? Ne savons nous pas que des caboteurs Haïtiens vont y charger à leur bord du sucre, du sirop, du tafia, du rhum, &c. par l'appât d'un gain illicite et les introduisent, en fraude, sur notre territoire contre le vœu de nos lois?*" However, we need not place much reliance on this document, as great allowance must be made for vagueness and exaggeration.

quired for raising the ordinary produce of the West India islands had not been destroyed in the revolution, it is manifest, that the *Haitiens* could not consume all they would be able to raise; since, previously to 1788, when the labouring population was at least one-third less than it is at present, according to M. Inginac's statement, *Haiti* could afford to export, of sugar and molasses alone, nearly 200,000,000 lbs. after supplying her own inhabitants. If, on the contrary, the capital have been destroyed, which all accounts agree in stating to be the fact, the labour of the *Haitiens* must be devoted to raising other articles, or to mining or manufactures, of the existence of which there is not a tittle of evidence.

The impossibility of any sudden alteration of slave into free labour, without either ruining the planters, or remunerating them by a heavy indemnity from this country, we therefore consider as indubitable; the loss, however, would not be confined to the mere inability of carrying on the cultivation; the plantation-capital, stock, implements, and the land itself, must also become worthless; as there would be no other kind of production in which to employ them, nor any hands to carry it on, if there were. An indemnity to the planters, such as the justice of the case would demand, must, in fact, extend to the entire value of the colonies.

Although this view of the subject is amply sufficient to shew the necessity of gradual measures, a slight consideration of the effect of immediate emancipation upon the slaves will exhibit it even more clearly. In their present situation, their spirits are broken, and their feelings debased by chastisement, and the want of the most ordinary civil institutions. If they were suddenly set free, they would become a horde of ferocious barbarians, actuated by revenge and hatred to destroy the whites, and devastate their property; or, which is much more probable, would at once sink into a listless inactivity, from which it would be impossible to extricate them. Either alternative is far too dear a price to pay. The proposal of immediate emancipation is most liable to these difficulties; but the two other plans for rapid enfranchisement are more or less exposed to them also.

By one of these it is proposed, that all the children born after a certain day shall

be free, but that they shall remain with their mothers till they are old enough to labour, when they shall be bound as apprentices to the owners for a term of years, as a remuneration for their loss as slaves, and the cost of bringing them up. Now, in the first place, if the child should be disabled, or die before the apprenticeship, or its expiration, the planter's remuneration would be affected: and in the next place, the servitude, during which he must associate with the slaves, perform the same work, and be exposed to the same treatment, would unfit him for becoming free; so that at its termination, he would sink into the same barbarous inactivity, which would attend a sudden emancipation.

By the second plan, it is proposed to buy up all the females. It appears, that the female slaves, including children, amount to about 360,000; and, if 60,000 be excluded as not worth redemption, on account of their advanced age, or infirmities, 300,000, or about three-eighths of the slave population will remain to be purchased, who at 50*l.* each (which is about the average price of women slaves) would, it is supposed, cost 15,000,000*l.* But there is an important fallacy lurking in this easy calculation. If a commodity be very rare, or if there be no more of it to be obtained, the value is prodigiously enhanced, which would be the case with the female slaves, as they would be the last of their kind. But when we add to this, that the colonies would be deprived at a blow of a large mass of labour, say one-fourth, it is obvious, that the loss which would arise to the planter, from such a sudden diminution of hands, or from the vastly increased expense he would be put to, in supplying the void with free labour, would augment the cost of redemption to an amount far greater than the one supposed. Assuming, however, that this country would be willing to expend so large a sum (and it must be recollected, that it would be a naked loss, as the only means of reimbursement would be to resort to compulsory labour, which would only be making the females slaves of the government, instead of private owners) what would become of the females themselves? What reason is there for conceiving, that they would not immediately fall into that fatal inactivity, which the climate, the fruitfulness of the soil, and their want of motives for exertion, point out as the two pre-

bable destiny of the freed Negroes? The promoters of this plan suppose, that they will occupy the places of wives and daughters of the men slaves: but such a speculation supposes vast changes and improvements—the attachment of the slaves to the soil—the institution of legal marriages—the inseparability of families, and a train of new wants, which would all require a length of time incompatible with the plan itself. Besides, what is to become of the unmarried and the orphans?

What then are the best means of changing the slaves into free labourers, in the way most conducive to their own interests, and the interests of the planters? We have already calculated, that two days and a half, out of seven, will supply them with food, clothes, and lodging. If the slave were married, and had children, a further day and a half might be fairly added; and if we suppose, that he would pass the Sunday unemployed, we shall have four days and a half, occupied, out of six, in providing for physical wants of the kind he feels at present. If wants could be imparted to him, which would demand a further day, it will be found, that he must devote five days out of six to toil, which is the portion of time that large classes of artisans in England expend for the same purpose. But simple as this calculation appears, it supposes the pre-establishment of vast improvements, which we shall now proceed to consider.

Ignorance is the great obstacle to the amelioration of the slaves, as of all the rest of mankind. The Government, therefore, have acted very wisely in making instruction the leading feature of their plan. But we have much doubt as to the fitness of the measures, which they have taken for carrying it into effect. The main purpose of teaching the Negroes, is, not so much to communicate knowledge, as to inculcate sobriety, industry, and other habits of civilized men, which can only be taught by the most constant and familiar communication with them on the part of their teachers. Their teachers must, therefore, be more than ordinarily insensible to the disagreeableness of popular instruction; for the character and personal habits of the Negroes will make it a work of the most revolting kind. How entirely the accomplishments of the clergy-men of the Established Church, and the

education they receive at the Universities, unfit them for such a task; and how far their views of the duties of an instructor of slaves, fall short of the real standard, may be seen from the language of the new Bishop of Jamaica:—"It is difficult," he observes, speaking of the Negroes, "to make sure of their attendance; but psalms and organs have great attractions for them." What substantial benefit the slaves can derive from gaping over the liturgy and a sermon, which they are content to endure, for the sake of the psalm-singing at the end, we are at a loss to conceive. The only way of securing teachers, fit for such a work, is to take them from the lower orders, in this country, or the blacks, and people of colour. Unfortunately, the English Church cannot furnish teachers of such an origin; and the Methodists, and other inferior sects, who are in the habit of sending missions, do not possess the confidence of the colonists, without which no efficient good can be done.

With a view to give the slaves opportunities for religious instruction, the government has proposed the abolition of Sunday markets; but, we think, with too little precaution. It appears that, in most of the islands, Sunday is the only day allotted to the slaves for attending the markets, and cultivating their provision-grounds, during the season of crop, which lasts from five to six months. During the remainder of the year, they have another whole day in the week. There is no comparison, as may be easily supposed, between the value of the slave's labour at different seasons. If we look at the constancy and severity of his work during crop-time, he may be said to be comparatively unemployed at other seasons of the year, as will appear from the following account of the management of the estate of Mr. Hibbert, a large proprietor, in Jamaica, by no means remarkable for exacting an extraordinary amount of labour from his slaves:—

"During that period, the general plan is to begin the manufacture of sugar on Sunday evening, and to continue it generally, without intermission, either day or night, till about midnight of the following Saturday, when the work stops for about eighteen or twenty hours, to commence again on the Sunday evening. In order to prevent any interruption of this process during the week, the slaves, capable of labour, are with some necessary exceptions, divided into two gangs, or spells, which, besides being both fully occupied in the various occupations of the plan-

taion during the day, are engaged the whole of the night, or alternate nights, in the business of sugar-making. The labour, during crop-time, is thus equal to six days and three nights in the week\*."

The planters very reasonably reply to this requisition of the government, that if the time for market and the cultivation of the provision-grounds were changed from Sunday to a week-day, the advantages at present derived from the labour of the slaves, would be diminished by one-fifth or sixth—a sacrifice which they cannot afford to make. What would any proprietor in this country think of a proposition by which he should be called on to surrender fifteen or twenty per cent. of the revenue of his estate, for ever? It is idle to appeal to the statutes which prohibit labour on the Sabbath in this country, to justify such an act. Those statutes have always been a dead letter in the colonies, which are not to be legislated for by the rule of our institutions, but with a view to their actual condition. The answer to the complaint is obvious enough. Let the planters be indemnified by this country, for the partial loss in the value of the slaves.

The next great improvement is the establishment of marriages amongst the slaves, which are too obviously important to need remark. One of the chief obstacles which occurs to the institution of marriages, is, when the parties belong to different owners. There can be no doubt that such marriages would be attended with loss to one, at least, of the owners, if the object of them were fulfilled; or it could not be fulfilled at all. The remedy for both mischiefs is to allow the wife to follow the husband to his owner, who should be allowed to purchase her: if he refuse to consent, the owner of the wife should have the same facility; and if both dissent, the slaves might be sold together to a third party, and the price paid rateably to the owners. Something like this provision is contained in the Spanish Cedula. Above all things, the consent of the masters to the marriage should not be required. But the main obstacle is the liability of the parties to be separated from each other, or their children, at the pleasure of the owner; for it is out of the question to suppose that marriages will take place, when the married slaves may be afterwards torn from each other and their families, at the will of third parties

Accordingly, no legalized marriages have occurred between the Negroes, in any of the West India islands. Provisions, therefore, ought to be made, not only to legalize such marriages, as recommended by Lord Bathurst, but to prevent the separation of the parties, under any circumstances; like those contained in the Spanish and Portuguese laws, which prohibit even the judicial sale of either party separately. The colonists themselves appear to confess the necessity of such provisions, as, in various of the islands, laws have been instituted for the encouragement and protection of marriages.

This leads us to consider the important plan of attaching the slaves to the soil. So long as they are exposed to be taken from their dwellings, at any moment, and transferred to other owners, and other abodes, they are deprived of some of the strongest motives to improve themselves. One of the main causes of social amelioration is the security of property. The only property that a slave can possess, is derived from the produce of his provision-ground. But what motives can he have to cultivate it beyond what is required for the moment, unless he feels secure that he shall not lose the fruit of his labours, by being sent to another plantation? Besides, the security of a settled home will obviously be one of the chief means of promoting marriages; as it will render the separation of the married couple impossible.

It must, however, be admitted, that more good has been anticipated from this measure than we can see reason to expect; for some have supposed that, by being attached to the soil, the Negroes would become free, like the villains of the feudal ages†. The capitals vested in West India cultivation, and particularly in the cultivation of sugar, must be very large, and employed simultaneously‡, which must be fatal to the *metayer*, or share cultivation, necessary to give the Negroes the small interest in the soil, which the villains possessed, as the first step. Such a system supposes a great paucity of capital, or a very limited call for it, on the part of the owner; and, accordingly, we find that it has been only pursued by owners of slaves in employments that require little or none of it. In Brazil, the owner supplies the slave daily with a certain quantity of provisions

\* See the pamphlet intitled "*Negro Slavery.*"

† Brougham's Colonial Policy.

‡ Bryan Edwards.

and tools, and the latter is obliged to return a certain quantity of jewels, or gold, according to the nature of the ground. The pearl fisheries of Panama were in the hands of Negro slaves, who were bound in the same manner, to render a certain number of pearls every week. In neither of these employments is capital necessary, beyond a very small quantity. It is true, that a great fall of profits on the present abundant capital in the West Indies, might render it necessary for the owner to resort to a cheap mode of cultivation; but it does not follow, in any shape, that he would resort to *share* cultivation for that purpose.

But the difficulties with respect to the views of certain reasoners on the side of the Negroes, are not confined to doubts. At present, as there is no law in any of the colonies to prohibit the owner from separating his slaves from the land, by sale or disposition at his pleasure, there can be no question that inconvenience, and even injustice might be done, if this right were taken away immediately; but we believe, that security would be provided against such consequences, if the abrogation of the right were postponed, so as to give him time to prepare for the change.

It appears that the raising of sugar and coffee has sometimes the effect of exhausting the soil, so as to render it barren: the islands are likewise exposed to hurricanes which lay waste the planters' stock and crops. In these circumstances, it would be a great injustice to the latter to prevent him from removing his slaves to a new soil, or from disposing of them, at a time when they might be the only property left him. These are, however, extreme cases, and ought not to affect the general question; besides, justice might be done, if the claim of the planter were left to the adjudication of some tribunal, competent to decide fairly between him and the slaves.

The main difficulty lies in preserving the rights of creditors. We shall not stop here to consider why mortgages are so much more common in the West Indies than elsewhere; we only need state the fact, that owing to certain circumstances, it rarely happens that a West India estate is not incumbered with mortgage-charges, generally in favour of the merchant in England, who lends on condition of receiving the consignments of the produce, in order to get the commission.

As the security of the merchant requires that he should be empowered to recover his loan without the impediments thrown in the way of mortgages in England, it is the practice for them to take judgments from the borrowers, which can be made immediately available by a writ of execution, under which, by the colonial laws, the land may be seized and sold, as well as the stock and crop. The sheriff or provost-marshal is bound to seize and sell in the following order:—first, the crops; then the goods; then the debts due to the defendant; next the plantation utensils; afterwards the slaves, and lastly the land; resorting only to the two last in case of deficiency in all the rest. As the worth of the crops (which are the only effects of much value) depends upon the season of the year, it happens, of course, that the sheriff or provost must have recourse to the slaves, who are sold in this way much more commonly than is generally supposed. The only mode of preventing the mischief is, to provide that the land shall be sold with the slaves, which would of course amply secure them from being detached from it. Lord Bathurst, in his circular, appears to have fallen into an error as to the requisition of the abolitionists on this head, as he supposes that it extends to prevent the sale of slaves for payment of debts in all cases; but it is obvious that this would have the very effect which is to be guarded against, since if the slaves could not be sold at all, the land would be seized and sold away from them. In cases where the mortgage deed is charged by the parties on the slaves alone, and not on the land, things must be left to their course; but as they are of rare occurrence, the mischief would be comparatively small. Injustice, it is true, would be done, in the cases of existing debts, if such an alteration in the law were effected immediately; but, if time were given for the purpose, it is clear that none whatever would arise. For there are but two ways in which a law affecting existing debts can operate; viz. the debtor either owes no more than his crop and slaves would satisfy, or his debt is so large that the writ must take the land. In the latter event, it is obvious that the proposed change could affect neither party. In the former, the order in which the sheriff or provost is obliged to sell, makes the slaves the real security, after the crop; the land, though bound by the judgment, being unavailable. Now

any mischief that could befall the debtor would be either from the creditor's accelerating or retarding the execution. If it were hastened, he would do no more than he is empowered to do under the existing law; and if he retarded it for the purpose of making the land available, the debtor would have the opportunity, in the meantime, of making arrangements by borrowing from a new lender, or by saving from the estate. If the debtor could do neither, the land would be sold as well as the slaves, because he would have no other resource than the sale of his estate, when deprived of the means of working it. It is impossible to say that such a provision would be productive of no hardship whatever, because there may be particular cases out of the common rule; but they cannot be numerous, and consequently ought not to stand in the way of a great improvement. The alteration might be made immediately with respect to future debts, without any injustice whatever.

But of all the projected improvements, a change in the system of punishing the slaves, is that which is attended with the greatest difficulties. It has been doubted whether flogging be actually applied to the slaves at work; but the paper of remarks by a committee of Trinidad planters upon Lord Bathurst's circular, which appeared in the *Trinidad Gazette* of August 1824, sets all doubts at rest, as it declares that "by those who have most considered the subject in that colony, the use of the whip (in the field) is believed to be identified with the existence of slavery." Lord Bathurst directs that the whip shall be disused in the field, and altogether discontinued in the case of women, and that the punishment shall not be inflicted until the day after the offence, and in the presence of one free person, besides the owner or overseer. With respect to the exception of females from flogging, there can be no doubt of the importance of preserving that sex from the shocking exposure which such punishment makes unavoidable; but the planters appear at a loss to supply any other stimulus. Confinement is nearly without effect with their present habits, for the exemption which it affords from labour is more than a compensation for the restraint; and hard labour cannot be resorted to, as in our own prisons, since the whip would be

necessary to compel the delinquent to work. The planters, therefore, have some reason for asserting, that to exempt the female slaves from corporal punishment, would be at once to proclaim freedom to one half of the slave population. Perhaps the worst part of female punishment—the exposure, might be considerably avoided if the punishment were inflicted by none but persons of the female sex.

The rest of Lord Bathurst's regulations, we consider not only as nugatory, but as highly mischievous. The owners and overseers, finding themselves deprived of the old modes of chastisement, will be racking their inventions to devise new ones, to which the regulations will not extend; and it is too probable that these will be much more cruel. Something of the kind is already taking place in Trinidad, where the regulations have been put into force. We are afraid that so long as the slave is made to work by fear, no material change can take place in this respect, and we see no hope of the substitution of another stimulus, until the state of things is radically altered. The only effective measure for preserving the slave from the abuse of the owner's power at present, would be to establish a law empowering the slave to change masters for ill treatment, as in the Spanish colonies, where any slave, on proof of bad treatment, may insist on being transferred to another master, at such a price as may be settled between the purchaser and the seller; in which case, if the latter be exorbitant in his demand, a third party is named as umpire.

It is manifest that the benefits of these or any other changes cannot be effectually secured to the slaves, unless the important point of receiving their evidence judiciously be conceded by the planters, who are more obstinate upon this than on any other subject. The objection to it is founded on one of the numerous fallacies which run through the system of English law. Instead of receiving testimony wherever it can be had, and of whatsoever sort, it is a principle with English lawyers to hamper it with difficult rules and qualifications which have generally the effect of excluding large classes of it, and those, too, of the highest importance in elucidating the case. One of the most objectionable of these rules is, the admission of no evidence unless proffered upon oath; this makes it incumbent



upon the witness to understand what is called the "nature and obligation" of that sanction, which, in their turn, cannot be comprehended, unless he has received proper religious instruction, or at least, unless he holds a proper religious creed. The state of piety and morals is so low at present amongst the slaves, that their understandings will not grasp this knowledge, and therefore the planters, in accordance with the lawyers, maintain that their evidence is not to be credited. At best, that is only a reason for doubting, and not for excluding it. Lord Bathurst has confirmed this fallacious rule by recommending, that the testimony of slaves shall be received when they can produce from their clergymen or religious teachers, certificates that they are so far instructed in religious principles as to know the meaning of an oath. This will throw the decision of all causes, in which the production of slave evidence is essential, into the hands of the clergyman, who must be appointed by the owner, and consequently be more or less under his influence. But even this partial abolition of the old rule, excepts one case in which the evidence of slaves is more indispensable than in any other that can be imagined. Whites capitally charged are not to be affected by slave testimony. Therefore, they may murder the slaves with impunity, provided they do it when only slaves are by, and so as to avoid being inculpated by circumstantial evidence; and as by the new regulations, a white man forfeits his slaves after being twice convicted of cruelty, he has now only to slay them outright under the same precautions. The colonists object that the masters' lives would be exposed to jeopardy from the false evidence of the slaves. Strange confusion of ideas! As if there could be any danger from the machinations of witnesses, whose evidence the objection itself supposes to be generally known or suspected as false. But the notion which the colonists have of justice is still more extraordinary; for although they are chary of exposing themselves, they do not extend the same protection to the slaves, who are uniformly allowed to testify for or against one another. In some of the colonies, the people of colour and free blacks are exposed to it also, although they are sometimes the holders of considerable property; in Trinidad they possess half the estates in the island.

These measures of improvement are to be regarded as steps to the emancipation of the slaves; but there are many regulations which might be made, to render their present condition more happy. We shall confine ourselves to one which we deem to be more important than any other—the repeal of the monopoly which the West Indians possess of the sugar and coffee markets. That monopoly is at present supported by a protecting duty of 10s. per cwt. upon East India sugar, and of 3d. per lb. upon East India coffee. The West Indians do not allege that they have any claim, on the score of merit or past or present services, to levy these contributions on the consumers. Their main justification is, that the monopoly is necessary to the well-being of the slaves. They maintain, that the depression in price, which its abrogation would produce, would aggravate the misery and privation of the slaves, and, perhaps, expose them to starvation. With respect to starvation, the facts we have adduced already, put it out of the question; we, therefore, need not enlarge upon that head. We shall observe, however, that any thing which lowers the profits of the planters, lowers also the value of the slave, and consequently increases the willingness of the master to manumit him, as it diminishes the sacrifice. If the redemption be effected by the slave, out of his own means, it is obvious, that it is in like manner rendered more easy. The principal hardship, which it is alleged the slave would suffer from the depression, would be the overworking, which would be necessary in order to make up by an increase of the quantity of produce, for what is lost by the decrease in price. Now the effect of lower prices is a decrease rather than an increase of production; for an increase only lowers the price still further, whilst a decrease, which is the consequence of the state of prices not making it worth the planter's while to continue to grow, raises them again. Referring to the question of starvation, we may remark, that if low prices starve the slaves, they must operate through one of two means; viz., the master must either deprive the slave of the provision grounds, or appropriate the days allowed for their cultivation; but the effect of low prices in reducing production, shews that the temptation to do either is decreased rather than augmented. Let us suppose, however, that the practice

prevails of distributing food to the slaves, instead of allowing them to raise it themselves. What will be the result? By this supposition, the labour of the plantation is entirely devoted to the culture of sugar or coffee, and it is by provisions purchased with part of this same sugar and coffee that the slaves are supported. If the abolition of the monopoly reduce profits so low that they will not afford a maintenance to the slaves, it is indisputable that they must starve if the owner be bent on carrying on that cultivation. But this is an insatiation which can be imputed only to insanity: for who can be supposed capable of persisting in a pursuit which not only yields him no remuneration, but destroys a principal part of his stock? The obvious course open to the planter is, to devote a part of his capital to the raising provisions on his estate for preserving his slaves. It is contrary, however, to all experience to suppose, that the planter would let his capital lie idle, which would be more or less the result of employing his slaves in raising their provisions for themselves. His attention would be turned to reducing the cost of raising his old commodity, or to raising other kinds of produce. Of all the products raised in the colonies, it appears that sugar yields the largest profits, and, as it is the staple commodity, it may be fairly concluded, that its profits fix the average rate which other products maintain by a more economical sort of cultivation. Now it is a remarkable fact, that the mortality amongst the slaves employed in raising sugar is greater than that in places where other articles are grown. Tobacco, cotton, and rice, are the staples of the slave states in North America, and the slaves there *increase* at the rate of  $2\frac{1}{2}$  per cent. per annum. In the Bahamas, where no sugar is grown, the slaves *increase* at  $1\frac{1}{2}$  per cent., and in Barbadoes, where very little is grown, at  $\frac{1}{2}$  per cent. per annum. But in St. Lucia, from 1819 to 1822, the *decrease* in the slaves was at the rate of  $2\frac{1}{2}$  per cent. per annum, the quantity of sugar being about  $5\frac{1}{2}$  cwt. for each slave. In Tobago, in the same years, the decrease was at the rate of  $2\frac{1}{2}$  per cent., and the quantity of sugar 9 cwt. per slave. In St. Vincent's, from 1817 to 1822, the decrease was at the rate of  $1\frac{1}{2}$ , and the quantity of sugar 10 cwt. per slave. In Jamaica, from 1817 to 1820, the decrease was at the rate of  $\frac{1}{2}$  per cent.,

and the quantity of sugar  $4\frac{1}{2}$  cwt. per slave. In Granada, during the same years, the decrease was at the rate of  $1\frac{1}{2}$  per cent., and the quantity of sugar 9 cwt. per slave. In Demerara, during the same years, the decrease was at the rate of between 2 and 3 per cent. per annum, and the quantity of sugar  $8\frac{1}{2}$  cwt. per slave; and in Trinidad, during the same period, the decrease was at the frightful rate of 3½ per cent. (a rate that would sweep off about half the inhabitants of the world in twenty years), and the quantity of sugar 12 cwt. per slave\*. What conclusion can be drawn from these facts? We are not aware that the unhealthiness of the sugar grounds is greater than that of other plantations; on the contrary, the cotton and rice grounds of the United States are rather esteemed the more unwholesome. We are, therefore, bound to believe, that this mortality arises from the high profits on sugar, which makes up for the neglect and sacrifice of the slaves. Where little or no economy is called for, it is obvious that the planter can afford this neglect and sacrifice; but where it is necessary, the planter resorts to good treatment, because it prevents the decay of their numbers, which he cannot afford to diminish. Any measure, therefore, which would oblige the planter to resort to a cheaper sugar-culture, or to raising other produce, would necessarily add to an improvement in the condition of the slaves. Economy in cultivation, has in some cases, not only led to considerable improvement, in the treatment of the slaves, but to a most important change in their habits, introducing, as it were, an inferior kind of independence. In Dutch Guiana, the competition of capitals and other difficulties which laid the colonists under the necessity of attending to the smallest savings, made them find out that task work was the most profitable manner of working the slaves, and it was universally adopted†; and in the Atlantic states of North America, where the staple articles are cotton, rice, and tobacco, which call for much attention to economy, task work is also in general use‡. The subject of this monopoly, considered

\* For these calculations, see returns of the slave population, laid before the House of Commons, 4th March 1823, 14th May 1823, and June 1824. Nos. 89, 347, and 424.

† Brougham's Colonial Policy.

‡ Hodgson's Travels in America.

simply with reference to the rights of the planters, has more properly formed part of another question\*, and need not be enlarged on here; but at all events, it derives no support from any supposed connexion it may have with the well-being of the slaves.

To return to the subject of enfranchisement. One of the chief means of hastening it would be to call a body of free labourers into existence, to work concurrently with the slaves, by giving the latter every fair opportunity of emancipation, consistent with the view we have taken of the principles of Negro labour in the West Indies. The best mode of emancipation is undoubtedly to give facilities to the slave himself to purchase his freedom. In the Spanish colonies the slave had a right to it by law, as soon as he could pay to his owner the sum he cost: but this regulation is obviously faulty; because it must be unjust towards the master, in case the value of the slave increase, whilst, if his price be taken at the time, great wrong may be done to the slave; for if he be able to redeem himself, it must be by his frugality and industry, so that the very qualities which make him worthy of his freedom, enhance his value, and, by consequence, the dearness of his ransom. Mr. Cooper, who went out to Jamaica, to instruct the Negroes on the estate of Mr. Hibbert, states, that he knew three valuable men who wished to purchase their freedom. They had long applied in vain to the resident agents of the proprietor. They at length, however, obtained their end by an application to the proprietor himself, then in England. After this, a fourth made many efforts to retain his freedom by purchase; but they proved unavailing, and he sank in consequence into a state of despondency, and became of comparatively little value†. Lord Bathurst, however, has chosen to adopt the latter plan, leaving the valuation to the award of a third party. The measure we should suggest is a graduated scale of prices adapted to the age, sex, and capacity of each slave, with a maximum, however, fixed rather above the highest rate that the best run of slaves sell for, beyond which the owner should not be allowed to push his demand, leaving it at the same time to the slave to make a cheaper bargain for himself if he

could. The Spanish colonists had an excellent custom for the facilitation of self-redemption, which might be adopted as a law in our colonies; for nothing would tend more to give the slave industrious habits. As soon as he had accumulated by his industry and frugality the fifth part of his value, it was usual for the master on being paid the amount, to relinquish to the slave another day of the week, besides Sundays and holidays, and so on until he paid the whole of his ransom, and thus became altogether free. Perhaps such a regulation might be materially aided, if a fund were created by parliament to pay a small portion of the redemption price, such as a fifth or sixth. It would not need be large, because the slowness of the process would allow it to accumulate, at the same time that it would afford great encouragement to the slaves, and increase the confidence in the whites‡.

The question of voluntary manumission presents more difficulties. Simply to manumit the slave, without first teaching him habits of industry and honesty, would, in the first place, be doing him a very small benefit: for we presume, that a life of such indolence as to make them "the pests of society," as we have already seen the free Negroes described to be, will not be looked on as a very hopeful one; and, in the next place, a class of free idlers might have a fatal effect on the rest of the slaves, who ought to be kept out of the sight of indolence. The colonial laws in most of the islands, impose a fine upon the owner, on the voluntary manumission of his slave, sufficient for his support when free; and this fine is paid into the treasury of the colony for that purpose, or a bond is given to the same effect. These securities are required to prevent unfeeling persons from emancipating old and crippled slaves, in order to elude taxation, and the expense of maintenance. The fine we think unadvisable; but we are so far from looking at the bond in that light, that we should

‡ Of the willingness of the slaves to purchase their own freedom, there is an extraordinary proof in Trinidad. From the 24th June to 24th December 1824, 89 slaves were manumitted, 69 of whom purchased their own freedom, and paid at the rate of 65*l.* sterling each. The slaves in that island are about 22,000: so that this is at the rate of 1½ per cent. per annum, and that in the first half year after the new regulation.—See additional papers in explanation of the measures of Government, laid before Parliament last session.

\* *Ante*, p. 673; et seq.

† *Negro Slavery.*

ther most to blame the frantic eagerness with which the former have pushed forward their views of emancipation, or the rage and obstinacy with which the latter have resisted every plan for amelioration. The former will make no allowance for the terrors of the latter, who alone are exposed to danger and loss; whilst the latter will make none for the abolitionists, whose feelings are harrowed up by occurrences, which cannot fail to attract the keenest sympathy of educated Europeans. Hence it is, that on a subject, in which both parties appeal to religion, humanity, and justice, language is in habitual use, which would disgrace two hostile clans of barbarians.

**INDIA.—I. *Burmese War.*—II. *Decan Prize Money.*—III. *Hindoo Widows.***

By a recent statute\*, parliament is constituted almost the exclusive instrument of control over those who administer the affairs of India. It is not our purpose on the present occasion to inquire into the efficiency of the check thus established, though it may fairly be doubted, whether the laborious duty of a regular and searching supervision is likely to be fulfilled by a numerous body, collectively under no responsibility for any neglect of such duty, and individually having no interest in the performance of it. In point of fact, except when the case of an individual has been agitated,—the removal of a public functionary,—or some immediately exciting matter of comparatively narrow interest,—the mention of Indian affairs in parliament has seldom gone beyond a desultory conversation. The financial accounts of India, though exhibited annually, elicit no kind of observation; and the legislative enactments of the three presidencies have never yet been alluded to in the House.

The first subject brought forward last session, was a bill for regulating the salaries of the judges in India. As we have discussed the subject of judges' salaries at some length in another article, it will not be necessary to repeat here the observations which may be found in that article, and which are applicable to Indian as well as to English judgest.

\* 53 Geo. III. c. 155.

† See post, LAW: *Salaries of the Judges and Police Magistrates.*

The next topic was the removal of British subjects from India; returns of which removals from the year 1784 to the last session were called for by Mr. Hume, and ordered by the house. He particularly adverted to the removal of Mr. Buckingham and Mr. Arnot, but no steps were taken in that business.

Mr. Hume also made a motion on the subject of the mutiny of the Indian troops in November 1824, but as this was mixed up with a call for certain despatches of Lord Hastings in 1819, and with remarks on the Burmese war, and more particularly as the official accounts of the mutiny had not then arrived from India, the motion was rejected.

I. THE most important part of the discussion was that which regarded the causes and conduct of the Burmese war, and as this is likely to attract considerable attention in the next session, we shall present a brief statement of the merits of the question.

The eastern frontier of Bengal is a line of impenetrable forest and hills extending for nearly five degrees of latitude. In all this space there are but three known points of communication with the nations further east. The first and northernmost is by the valley of the Brahmapootra, in latitude 26° north, which is known as the country of Assam. The river is navigable for several hundred miles before it enters Rungpoor, the north easternmost district of the British possessions, and the valley is fruitful, though rather unhealthy.

The second is by the valley of the Soorma, in latitude 25° north, known by the name of the Kachar country, which is contiguous to the district of Sylhet on one side, and is bounded on the other by the mountains of Kossye. This river is likewise navigable beyond the British frontier, though very inferior to the Brahmapootra in size and consequence. There is no third opening until we come to the sea-coast, at the southern extremity of Chittagong, in latitude 21° north. The British boundary here touches on that of Arracan or Rykhung, from which it is separated by a navigable river called the Náf.

The reigning dynasty of the Burman empire commenced with Alompra, who flourished about the middle of the last century; and the Burmese have ever since been a conquering nation. They reduced Arracan in 1783, forcing the bulk of the

population of the Moghada or Mufgrace, to take refuge within the Company's possessions. The Naf was then, and has on several occasions since, been recognized as the mutual boundary. At the mouth of this river there is an alluvial island covered for the most part with jungle, and separated from the promontory of Teknaf, which forms the northern bank, and on which the Company have long had a *thana* or police-post, by a fordable channel. The main stream, which is navigable for vessels of considerable burthen, and nearly a mile wide, divides the island from Mungdoo, the extreme northern post of the Burmese in Arracan. This island is called Shahpooree, and has never yielded any thing except fire-wood. The Burmese preferred a claim to it as theirs by long established right; but the island was never inhabited, or otherwise occupied. The British officers denied this right, and claimed the island for the Company, resting their claim partly on the position of the island, which by the law of alluvion would make it theirs, and partly on the assertion, that it had always been considered as theirs, and had been included in their maps and territorial surveys. The case was referred to the Supreme Government, when Mr. Adam determined to maintain the British right. He addressed a letter to the Arracan authorities, stating this resolution, and at the same time ordered the island to be occupied by a party of the local corps, stationed for civil duties at Chittagong. Thus matters stood upon Lord Amherst's arrival. The Burmese officers, without answering the letter, sent messages to the police-officer of Teknaf, requiring him to withdraw the detachment, and threatening to employ force for its removal. No attention being paid to these threats, the Burmese on the 24th of September, 1823, landed on Shahpooree in a night attack, and drove away the party stationed there, with the loss of several lives.

Considering the nature of the quarrel, and the worthlessness of the object in dispute, it might have been wise to have sought to explain away the affront, and to have aimed at procuring some such compromise as would have prevented an open rupture: the more so, as it appears, that the Burmese would have been satisfied at one time with an engagement from us not to occupy the island of Shahpooree, and that they would probably

have engaged not to occupy it themselves. But it seems pretty clear, that whatever might have been done on this part of the frontier, matters must still have been brought to a rupture with the Burmese at other points, and therefore that concession might only have operated as an encouragement to the assailants. We allude to the Kachar dispute, which was briefly as follows: Muneepoor is the capital of that part of Kossye which borders on Kachar, and, through it, lies the direct route from Umerapoor to Assam. In 1773 it was conquered by the Burmese, but their tenure was always precarious, the inhabitants flying to the hills and fortresses, and at different intervals recovering their capital. About 15 years ago, that is in the time of Lord Minto, the Muneepooreans being pushed to the south east, indemnified themselves at the expense of their western neighbours of Kachar, who being a race of pusillanimous Bengalees, under a Raja without energy, resources, or influence, were easily reduced to subjection. The Raja (Govind Chundur) took refuge within the Company's possessions, where after much indecision as to whether or not he should be supported in an attempt to recover his territory, he was finally allowed an asylum, on the condition of not disturbing the peace of the frontier. Until 1820, Kachar was with Muneepoor, under the joint authority of the hereditary enemies of the Burmese, and in that year the power was in the hands of two brothers, Chorjeet and Marjeet, with their cousin Gumbheer Singh. In that year, however, the Burmese sent a larger force than usual, under a general called Mengee Maha Silooa, and he, after reducing Muneepoor, prosecuted his conquests into the eastern parts of Assam. The three Muneepoor chiefs, yielding to circumstances, retired: Gumbheer Singh to the mountains; and the two brothers into Kachar: but availing themselves of the absence of the Burmese in Assam, they united shortly after, and recovered Muneepoor. They did not, however, hold it long, for a yet larger army, under the victorious Mengee Maha Bandoola, retook Muneepoor, and then advancing into Assam, completed the conquest of that valley, and defeated its Raja, Chundur Kunt, in a battle fought almost in sight of the British post at Jugeegopa, on the Brahmapootra.

The Burmese, be it observed, are not content with taking the revenues, and conducting the administration of the countries they subdue. This is a refinement of European warfare. Less civilized nations always aim at the extermination of their enemies: such at least is the invariable policy of the Burmese. This system had begun to operate in Assam in 1822 and 1823. The population was retiring in masses before their conquerors within the British frontier, and although military posts were established at Jugeogopa and Gwalpara for their protection, these were insufficient to prevent repeated violations of the frontier, by parties of Burmese who came in search of the property or persons of the refugees. As yet, the Burmese had neglected Kachar, deeming it part of Bengal, and respecting it apparently on that account. The Supreme Government, however, disquieted by the recent successes of this nation in Assam, resolved to make their stand on the Kaohar rather than on their own immediate frontier. The Burmese had no claim whatever to that territory, while Marjeet and Chorjeet were both anxious to place it under our protection, and the exiled Raja was no less solicitous to see it rescued from such a race of conquerors. Under these circumstances Kachar was declared under protection, and an asylum given to Chorjeet and Marjeet\*. In the meantime, as was expected, the Burmese in their inveteracy against the Muneepooreans, sent another expedition for their extirpation, and appeared in Kachar on the Assam route, as well as on the direct road from Muneepoor, claiming, not possession of that country, but that the persons of these refugees should be given up to their vengeance. This demand they declared themselves prepared to enforce by an immediate appeal to arms, and by following their enemy even to the further end of Hindostan if necessary. Thus, without any reference on the part of the Burman leaders to the dispute about Shahpooree, matters were unavoidably brought to the issue of direct hostility with the British troops advanced to the frontier in this quarter. The first gun

was fired by the Burmese on the 17th of January, 1824, while the Supreme Government were waiting a reply to the letter addressed to Umerapoor, complaining of the outrage at Shahpooree of the preceding September.

It seems manifest from the above statement, that Lord Amherst was dragged into the war by a train of events to which no prudence and no submission on his part could have given another turn. We might support this conclusion, were it necessary, by an appeal to the subsequent conduct of the Burmese on the Arracan frontier; for they not only rejected every offer to negotiate their differences there, but shewed a settled determination to maintain their pretensions at all hazards, and committed various acts of a most unfriendly character in prosecution of this determination.

We now come to the second question; as to the manner in which the war has been conducted. It is clear, that the only legitimate aim of measures to be undertaken against a horde of barbarians, like the Burmese, is, first, self-defence, and secondly, security against a repetition of violence. Conquest and the acquisition of territory ought not to be the motive for hostilities, except as conducive to this second end: the most sanguine politician could never dream that the future profit to be obtained from such a nation would ever repay the outlay requisite to achieve the conquest.

On first hearing of the attack on Shahpooree, Lord Amherst and his council appear to have felt much indignation. An immediate expedition to Arracan was resolved upon; ships seem absolutely to have been taken up; and a commander† was even named for the enterprise. The object of this, was, to impress the enemy with respect for our power, and to frighten them into concession. However, the plan was relinquished as suddenly as it had been adopted, and in the midst of the preparations for its execution. It was resolved, instead, to send a few companies of regular troops to re-occupy Shahpooree, and to prefer a written complaint against the frontier officer in a letter to Umerapoor, so as to give the opportunity of disavowal, before making the case a matter of peace or war with the Burman nation. — This plan was adopted in

\* The asylum must have been afforded at any rate, so that it was merely a question when the government should step in between the Burmese and their prey, whether before or after the loss of Kachar.

† Col. M'Craagh, H. M. 13th Lt. In.

October, 1823. No answer having been returned from Umerapoor by the beginning of March, 1824, a formal manifesto and declaration of war was then published in the gazette. But hostilities had already commenced on the Kachar frontier, and Shahpooree proving too unheathy for a post, our troops had been withdrawn, when the Burmese re-hoisted their flag there with much parade; in fact there had been war since January, and in the delay of the proclamation, the season for military operations was allowed to draw to a close. War, however, being thus declared in the beginning of March, it is by the measures then taken, that Lord Amherst's fitness for his station must be judged. Information was sought in all quarters, and an officer was summoned to Calcutta, who had been twice to Umerapoor, and twice to Rangoon. This was Major Canning, who gave his counsel some time in the beginning of March. Up to this date the Supreme Government had no thought of an expedition to Rangoon; the Major however had no sooner reached the presidency, than without consultation with the commander in chief, who was on a tour of inspection to the west, expresses were sent to Madras, to urge the instant embarkation of 10,000 men thence, for Rangoon, while 3,000 were immediately put on shipboard for the same destination, from Bengal. The hurry with which this expedition was determined upon, is a peculiar feature of the case. The resolution was even more sudden than that before adopted and abandoned, in regard to Arracan. The reins of government seem to have been abandoned to Major Canning, and the nation has been led into a set of measures which, so far as we see at present, can only end in a war of extermination and conquest.

But how were matters conducted in the field? The expense of this expedition, from the union of land and naval armaments, and the large proportion of European troops, was beyond any thing before known in India, and demanded at least some deliberation. This expense was absolutely thrown away during six months of rainy season, and it was known before hand, that this season would commence about the time the expedition would reach Rangoon. It was known too, that while the troops lay inactive on account of the rains, all supplies

were to be furnished from Bengal, and that their transmission (from the monsoon being adverse) must be difficult, irregular, and inordinately expensive. Then the rain, the bad quarters, and insufficient supplies, produced extreme unhealthiness, and a great mortality ensued. The very means of defence at home being crippled, in order to send out this expedition, the enemy were invited to attempt our frontier, where a disaster was experienced, most alarming to the safety of our Indian empire.

All these consequences ensued from the unfortunate time chosen for fitting out this expedition to Rangoon: all these consequences might have been foreseen; and it was not too much to expect of the Supreme Director of the affairs of the nation in India, that he should have had the knowledge and good sense to anticipate them.

The undivided responsibility for the Rangoon expedition lies now on Lord Amherst. The Major, who advised it, is dead; the only member of council who participated in the determination, is out by rotation; and the Commander-in-chief of Bengal, who was absent from Calcutta at the time of the expedition, has evidently never concurred in the measure, if he did not oppose it.

The operations against Assam, and for the expulsion of the Burmese from Kachar, were indispensable for security and self-defence, and need no comment. The expedition sent in the following season against Arracan, was likewise a necessary effort to redeem the loss of character sustained on that frontier; but the bulk of this force should have been withdrawn upon its success before the commencement of the rains. Of the expedition to Rangoon, however, with all its consequences, the reduction of Martaban and Mirgui, with the places on the Tenasserim coast, and the subsequent advance and establishment of the force at Prome, we see but one issue—a war of extermination with the Burmese nation, and the aggrandizement of our empire in India, by the retention of every inch of the territory. The end with a view to which the war should have been undertaken, has thus been quite lost sight of for operations, which, though at the lowest estimate they have cost several millions sterling, were not necessary for the mere purpose of producing such an impression on the

enemy as should prevent a repetition of insult.

II. THE next subject which engaged the attention of the House with regard to Indian affairs, was the distribution of the Deccan prize-money. We have been at some pains to ascertain the merits of this question, and the following is the result of our inquiry.

When the Marquis of Hastings planned the operations for suppressing the Pindarees, and other predatory hordes of Central India, he had to keep in view,—First, the character of the enemy's force, which, like quicksilver, would divide upon collision, and re-unite in various directions;—secondly, the probability that the Mahratta powers, or some of them, would make common cause with the depredators. In this state of things, it seemed expedient to form as many separate armies as possible; some, to beset the avowed enemy; others, to watch the conduct of suspected friends. This was the plan adopted, and for its execution, the whole disposable force of the three presidencies was ordered into the field. Lord Hastings placed himself in a central position in Hindostan, to superintend the operations, and prescribed the formation of every separate force, and the line on which it should act. In order, however, to bring up the resources of Madras, and give consistency to the movements on that side, Sir Thomas Hislop, the commander-in-chief of that presidency, was ordered into the field by his lordship, and the several armies formed to the south of the Nerbudda, made up partly of Bengal troops, but chiefly of those of Madras and Bombay, together with the reformed troops of our allies, were constituted into divisions of the army of the Deccan. All these Sir Thomas was nominally to command in subordinate co-operation with the divisions of the grand army of Hindostan, of which Lord Hastings was the commander-in-chief. Thus commenced the campaign entirely under his lordship's personal direction. While, however, the armies brought up from the south, were, with those from the west and from Hindostan, sweeping the tract where the Pindarees lay,—the two Mahratta powers most strictly in alliance with us, viz. the Peshwa and Bhoosla broke out into hostility behind the line of our operations. A third, the Holkur Darbar,

made common cause with the freebooters, and met our advancing armies in the field. All were ultimately overpowered; the Pindarees, however, with Holkur, soonest; so much so, that the operations for sweeping the Pindaree country, being finally concluded in January and February 1818, an entirely new distribution of all the forces was then made under Lord Hastings' orders, and the nominal distinction of army of the Deccan was done away. This occurred in the midst of the operations against the Peshwa and Bhoosla, which were not finally concluded till the capture of Aseergurh in April 1819. Though delayed somewhat beyond the occasion, the final orders for dissolving the army of the Deccan were published by Sir Thomas Hislop himself, on the 31st of March 1818, and Sir Thomas, immediately after, returned by sea to Madras. It appears, that in the conjoint operations against the Pindarees, very little booty was taken; whereas, the forces left originally to watch, and afterwards employed against the Peshwa and Bhoosla, and those sent to help them, took a great deal, some before, but most, after the dissolution of the army of the Deccan, of which, while the name lasted, some, though not all, were nominal divisions. Sundry questions arose as to the distribution of this booty, and as all booty in theory belongs to the crown, it was for His Majesty with the advice of his Lords of the Treasury to decide. Lord Hastings seeing the impossibility of determining in all cases to whom the booty should belong, recommended that the whole should be formed into a fund for the benefit of all the troops employed in any way in the different operations, and a claim was preferred on his part, in England, to share as commander-in-chief. This was resisted by Sir Thomas Hislop and his staff, who claimed to be commander-in-chief and general staff for the army of the Deccan, and who desired such a distribution as would exclude the Hindostan troops, and their commander. The pretensions of all parties having been fully argued before the Lords of the Treasury, the majority of these lords determined (against, it is said, the opinion of their chief,) that the booty should not be formed into a general fund, and that the claim of Lord Hastings, as commander-in-chief of all the armies, should be disallowed. The principle of actual cap-



ture was to be adhered to as far as possible, with an exception in favour of one detachment of the Hindostan army, sent down to assist in the operations against Nagpoor: and with the addition, that the East India Company should have none of the booty.

The Duke of Wellington and Mr. Arbuthnot, of the Treasury, were, on the 22d of March, 1823, made trustees to collect the booty, and prepare a scheme of distribution on the principles so declared. Mr. Atcheson was solicitor for Sir Thomas Hislop and the staff and army of the Deccan. Having carried his point with the Lords of the Treasury, he proceeded to lay before the trustees, statements of the booty claimed for his constituents. The trustees took his information as long as he had any to give, but refused altogether to place themselves on confidential terms of intercourse, or to lend themselves to his views in contesting with the East India Company various extensive claims set up by him. The trustees seem, indeed, to have considered him as preferring claims on behalf of the Deccan army, such as no officer would ever have thought of advancing. Mr. Atcheson's statements are before the public, and the principle on which he proceeds seems to be, that all the advantage obtained by the East India Company from the war, is to be considered as military booty, and that the Company should therefore not only refund all it had obtained in cash, but, further, purchase of the army all prospective advantages, all palaces and public buildings, and even all additions to the revenue that have resulted from the war. Dismayed at these pretensions, the trustees sought to cut off all further communication with Mr. Atcheson, by opening a direct correspondence with Sir Thomas Hislop and the military men sent home as prize-agents. Mr. Atcheson continued to address letters to the trustees, enclosing the opinions of counsel, and insisting that the trustees should communicate with him as sole law-agent for the Deccan army. The principal matter in which Mr. Atcheson required to be dealt with thus confidentially, was this: the trustees had received his statements of booty, and had submitted the statements to the law-officers of the Crown, by whose opinion they and the Treasury were resolved to be guided. Mr. Atcheson in-

sisted that the opinions so given by the crown-lawyers should be communicated to him, that he might submit them to other counsel on the part of the Deccan army. The trustees refused Mr. Atcheson's request. They further expressed their opinion, that there was too much disposition shown to *go to law*; but offered to submit all the proceedings to Sir Thomas Hislop's inspection, or that of any number of officers of his army.

A petition was next presented to parliament from Colonel Fitz-Simon, of the Deccan army, complaining of the delays tarrown in the way of the distribution, and attributing them, in plain terms, to the trustees, and their refusal to admit Mr. Atcheson to their confidence. Dr. Lushington then declared the parties to have been insulted, in a letter from the Duke of Wellington, and imputed the opposition Mr. Atcheson had experienced to his refusal to allow a son of Mr. Arbuthnot to be nominated a joint prize-agent. The fact is undoubted, that such a nomination was in agitation, and was given up after, if not in consequence of, the opposition made to it by the existing prize and law agent. The matter might have ended here, but for the anxiety of the military friends of the noble Duke to stand forth as his defenders. On the third day only, after the reading of Colonel Fitz-Simon's petition, another petition was produced, asserting the perfect satisfaction of the Madras army at the conduct of the trustees, and bearing the signature of Sir J. Malcolm, with that of three other officers, in respect to whom it came out, that one being in Scotland, a friend had taken upon himself to sign his name. Mr. Atcheson's bill was stated in parliament to amount, at that time, to about 17,000*l.*; at present, we hear it amounts to about 25 or 30,000*l.* And it was against proceedings calculated to increase this bill, that the trustees set their faces.

A third and a fourth petition were presented to the House of Commons on the same subject, one from Sir Evan John Murray McGregor, a sharer, disavowing the declaration of general satisfaction put into the mouth of the army by Sir John Malcolm; and the other from Mr. Atcheson, exculpating himself from the charge of desiring to promote litigation, and complaining of the treatment he had experienced at the hands of the trustees.

The trustees have since continued

their endeavours to realize and divide the booty according to the principle laid down by the majority of the Lords of the Treasury. A difficulty, however, has now been started, which will probably operate to deprive Sir Thomas Hislop and the army of the Deccan, of much which they have long looked upon as their own.

In so far as the booty captured from the Peshwa or Bhoosla was taken in forts or camps which fell before the conquering armies, the principle of actual capture might well be applied; and if the capture were made before the dissolution of the army of the Deccan, Sir Thomas Hislop and his staff might claim the usual proportions of commander-in-chief and staff over the divisions which made the capture. But much, indeed the bulk, of the amount claimed on the part of the army, was state-prize, which fell to the civil officers of the government that succeeded the Peshwa and Bhoosla; and how was it possible to apply the principle of actual capture to such booty? Thus Baja Row Peshwa had sent the bulk of his state-jewels to be concealed in a private house in the open town of Nāsik. Information of the hoard was given to Mr. Elphinstone, the civil commissioner, some time after the dissolution of the army of the Deccan, and when a few operations against the Arabs of Kandés were all that remained to complete the reduction of the country. Mr. Elphinstone sent immediate orders to his civil deputy in that part of the country, who happened to be a military man (Captain Briggs), and he proceeded with a small personal escort, borrowed from the force of Colonel M'Dowall, to take possession of these jewels. Had the crown been the governing authority of India, the prize would probably have been deemed a *droit*, so as not to fall to the army: but the governing authority happening to be the Company, which is precluded from any right or interest in booty resulting from war, the crown has ordered the Nāsik jewels to go to the army. Upon the principle of actual capture, however, Mr. Elphinstone, who directed the operation, must be the commander-in-chief, and Captain Briggs, his civil assistant, the actual captor. Neither Sir Thomas Hislop nor his staff can have a better claim than any other indifferent person. But if there be absurdity in the principle of actual capture, as applied to these jewels, there is still greater in respect

to two other items claimed for the Deccan army, viz.: first, a sum of money deposited by Bajee Rao, with a native banker of Bombay, and recovered from him by proceedings in the Recorder's court, conducted by the Company's Advocate-General there; and, secondly, a large quantity of jewels sent from Nagpoor for deposit at Bunares, with a merchant of that city, and for the recovery of which suits have been instituted in the native courts of Bengal, which so far as we are informed, are still undetermined. Who, we would ask, are the actual captors in these two instances? And yet these items, as state-prize, which the Company is not entitled to, will probably be awarded to the army. The last-mentioned jewels it was intended by the Bengal government, to restore to the Raja, by whom Apa Saheb has been succeeded at Nagpoor, but the award of the Treasury Lords has deprived the Company of all power of disposing of them, and if they be now restored, it must be after re-purchase from the army. These difficulties were inherent in the case from the beginning, and suggested the recommendation of the Marquis of Hastings, that all the booty should be thrown into a general fund. They must have been fully argued by the counsel employed in support of that side, and yet, it appears, that the majority of the Treasury Lords were not convinced until the trustees, finding the difficulty of applying the principle of actual capture to their award, reported the same for further judgment. The arguments of both sides on this part of the case were again heard by the Treasury, on the 7th of January 1826, and the case now awaits the decision of that tribunal.

III. A short discussion took place, before the close of the session, on the *Suttees*, or burning of Indian widows on the funeral pile of their deceased husbands.

This rite, which is a form of public suicide, seems so strongly sanctioned among the Hindoos by religion and custom, that it would be difficult, if not impossible to suppress it by direct legislative interference.

The Hindoos maintain, that the true *Suttee* need not burn publicly, but even if prohibited, will pine away and die, for the sake of joining her husband in paradise.

The presence of the police-officers under the system now pursued on these occasions in India, may tend to assure us, that the suffering, or at any rate the going forth to suffer, is not the result of any other compulsion than that which is occasioned by superstition and family pride. If this be so, it seems hopeless to expect any alteration, except in the progress of truth, and the decay of superstition; and it may fairly be asked, whether those members of the House whose imaginations seem so deeply affected, by this distant, irremediable, and comparatively small amount of suffering, might not employ their time and faculties better, by attempting to remove the causes of misery prevailing to an enormous extent in their own country, and for the removal of which little more is requisite than a moderate portion of disinterestedness.

## FINANCE AND TRADE.

**I. *The Budget—Assessed Taxes—Spirit Duties—Beer Duties, &c. &c.*—II. *Foreign Trade, &c. &c.***

IN order to simplify, as much as possible, the subject of which we are about to treat, we shall divide it into two parts. We shall consider, in the first place, those taxes and duties which are imposed for the sake of raising a revenue to defray the expenses of government; and secondly, those of which the objects are of a different nature, as, for instance, the protection of manufactures, the encouragement of shipping, or the formation of advantageous political connexions with other countries.

I. IN entering upon the first of these subjects, we may observe, that whilst, on the one hand, we disagree with those metaphorical reasoners who would persuade us that the money which is taken in taxes is not really taken from the people—a proposition which has been proved by a simile, in which taxes are made to resemble the moisture which, being first drawn up from the earth, is sent back to it in refreshing showers; neither on the other, can we coincide in opinion with a certain worthy county member, who is reported to have made it a subject of self-congratulation, at a meeting of his constituents, *that he had*

*never voted in favour of any tax.* Taxation is, in fact, the price which we pay for government; and our object in this, as in all other purchases, should be, to obtain the best article we can at the lowest price. For this purpose it is necessary not only that the affairs of government should be conducted with the greatest wisdom and economy, but also that the revenue which is required should be levied in such a manner as to occasion the smallest possible loss of enjoyment to the contributors. It is on this subject alone that it is our province at present to treat. We have nothing to do with the amount of the sinking fund, the standing army, and other like objects, which have found their way into the debates on taxation. In this place we must assume that a certain revenue is necessary, and we have only to inquire how it may be raised in the most advantageous manner.

A striking alteration has taken place, during the last four years, in the management of this department of our government, by the resignation of the late Chancellor of the Exchequer, Mr. Vansittart, now Lord Bexley; a minister who repeatedly proved himself to be ignorant of some of the simplest of those principles which ought to have guided his conduct, and who, in several instances, systematically persevered, year after year, in increasing duties, when he might have learned from the returns, that the only effect of such increase was the rapid reduction of the revenue\*. Mr. Robinson has, therefore, had the peculiar good fortune, on entering into office, to be enabled at the same time to reduce taxation and to increase the revenue. As it may be useful to ascertain how and in what cases these desirable objects may be effected; and as it is a subject which we believe has been never very fully explained; we shall not apologize for enlarging on this topic. We do so with the less hesitation, as by laying down some of the general principles of taxation in the first instance, we shall facilitate our subsequent inquiries.

We may of course assume that the whole annual revenue of the inhabitants of every country, whether they be productive or unproductive consumers, is expended on the various articles produced

\* See Edinb. Rev. vol. xxxvi. p. 534.

by labour and capital. We may also take for granted, that the relative quantities of the articles consumed, will depend upon two circumstances, viz. the desire of the consumer for the article in question, and the cost of producing it; that it will be directly as the former, and inversely as the latter. Now if an equal *ad valorem* duty be laid upon all commodities, it is clear that their relative prices will remain unaltered; and if we suppose the relative desire of the consumer for the different commodities to remain the same\*, the relative consumption of each article will remain unchanged, and the tax will fall equally upon all consumers, exactly in proportion to the value of the commodities which they consume. Let us now suppose the tax upon some one commodity to be greatly increased, so as to raise its price to such a degree as greatly to diminish, or entirely prevent, its consumption. It is evident that the whole, or a great part, of the income which was formerly expended upon this article, will now be employed in the purchase of other commodities. The revenue, therefore, will not be increased in proportion to the increase of taxation; but at the same time, it will not be diminished, because these other commodities will remain taxed to the same extent as before. But since, in all countries, there are some articles which are taxed either not at all or to a very small amount, it is evident that, if the consumer should have recourse, as he probably would, to these articles, the revenue would actually be diminished by increasing the tax. It is in this way alone that an increase of taxation can be attended by a diminution of revenue. For let us put a different case. Let us suppose that an equal *ad valorem* duty is laid upon all commodities except one, which either is altogether exempt, or is taxed only to a small amount. If this article be now subjected to the same taxation as the rest, it is obvious that its consumption

will be probably greatly diminished, or that it may cease altogether, and that consequently the produce of the tax on this particular commodity, will be diminished to little or nothing. But since the income which was formerly expended on this untaxed article, must now be employed in the purchase of taxed commodities, it follows that the whole revenue of the state, instead of being diminished, may be increased. From these considerations, we think we are justified in drawing the following conclusions. First, that there is not, as is often supposed, an absolute limit to every duty, beyond which an increase of taxation necessarily occasions a loss of revenue; but that this loss is the consequence, not of high but of unequal taxation. Secondly, that even when it appears from the returns that the increase of a tax on any article has caused a diminution of revenue on that particular article, it does not necessarily follow that it has caused a loss to the revenue generally, because the loss may be made up by an increased consumption of other articles, taxed to an equal or greater amount. But whenever an increase of duty is attended by a diminution of revenue on an article more highly taxed than the average of the commodities of the country, we may generally conclude that the additional taxation has been unprofitable or pernicious. Thirdly, it appears that inequality of taxation is generally injurious in the three following ways: 1st, in causing a loss to the revenue; 2dly, in producing inconvenience to the consumer, inasmuch as it narrows his choice of the articles of consumption; 3dly, in causing injury to the producer and the merchant, by whom such articles are distributed, by compelling a transfer of their capital from one employment to another a process which can rarely be accomplished without both inconvenience and loss.

There is also another consideration of great importance, which would lead us to disapprove of unequal taxation; we mean the encouragement which it affords to smuggling. It is quite unnecessary to detail the injurious consequences which result from this offence, or to demonstrate the impossibility of preventing its continuance so long as the present high duties exist, as these topics are a constant subject of discussion, both in and out of parliament. It may be sufficient to remark, that its prejudicial effects to the commu-

\* We have assumed, throughout the whole of this inquiry, that the relative desires of the consumer for different commodities will remain the same, provided their relative price be unaltered. This is not, however, strictly true; since, if taxation be raised to a great amount, the consumer would probably resign some of the luxuries in preference to the necessities of life. To have made allowance for this circumstance would, however, have greatly complicated our statement, and the assumption is sufficiently accurate for our present purpose.

nity may be classed under the three following heads:—1st, as it occasions a direct loss to the revenue; 2nd, as it gives rise to an enormous expense in the maintenance of a police, and a military and naval force for the preventive service; and, 3d, as it tends to injure the morals of the people, by familiarizing them with the violation of the law—a violation which is attended with considerable profit, without subjecting the offender to popular odium. The inducement to smuggle depends, of course, upon the profit of the smuggler; and it is evident, that with some slight limitations, this profit amounts to the whole of the duties due upon the smuggled goods, deducting the additional expenses occasioned by the peculiar difficulties of the contraband trade and the occasional losses from detection. The duties upon some articles are at this moment so high, that we have heard it stated, that if the smuggler can land in safety only one cargo out of three, he will be amply recompensed for his trouble and expence, though he lose the other two. In order then to diminish to the utmost the inducement to smuggle, we should endeavour to reduce all our duties to the lowest possible rate; that is, we should make them all, as nearly as possible, equal *ad valorem* duties. A very common error has prevailed amongst legislators on this subject. It has been thought, that if an article, from any cause, becomes reduced in price, it is the better able to bear taxation; and the proposition is perfectly true, if it be meant that Government is the less likely to receive complaints from the contributors. But if the prevention of smuggling be a desirable object, instead of increasing we ought to diminish the duty with the diminution of the price of the article; because the temptation to smuggle is, as we have shown, nearly proportioned to the amount of the *ad valorem* duty.

In adapting the principle we have just expounded to practice, considerable modifications will be required. In the present state of this country it would be necessary to proceed to the equalization of our various duties with a cautious hand, and with a careful regard to existing interests. It might be also necessary to introduce some permanent modifications of the principles which we have endeavoured to establish. Thus, for instance, there may be some commodities on which it

might be desirable to impose little or no duty, either on account of the peculiar difficulties of producing them, the facility of smuggling, or from other moral or political considerations. It is satisfactory to find, that correct principles on these subjects are gradually working their way from the study of the philosopher into the Cabinet, and the House of Commons. Not many years have elapsed since such principles were mentioned in parliament only to be treated with contempt, as the visionary speculations of theoretical reasoners, whereas at present, owing, we must say, to the efforts of Mr. Ricardo (whose irreparable loss we are only beginning to deplore), and to the liberal opinions of the more enlightened part of the Cabinet, there appears to be every probability of their forming a permanent basis of our financial system. Our prospects are the more encouraging, as all the liberal measures of the present Chancellor of the Exchequer have hitherto been attended with signal success; and, instead of the revenue being diminished, it is calculated that at the expiration of this and the two following years, there will be a clear surplus to the amount of upwards of four millions\*. It became a most important question to determine in what way this surplus of revenue should be disposed of, so as to afford the greatest relief to the people; a question which under one shape or other was the subject of most of the financial debates during the last Session of Parliament. Two different plans have been proposed for this purpose: the one, to abolish altogether the house and window duty, and the rest of the assessed taxes; the other, to reduce those duties which press upon our trade and manufactures. The former of these measures was certainly the more popular, and was warmly supported by most of the members for large towns; but the latter was adopted by the Chancellor of the Exchequer. The assessed taxes are unpopular because they are paid directly by the consumer to the tax-gatherer; whereas, when the duty is imposed upon an article in the course of its manufacture, the consumer probably is not aware, or forgets, how large a proportion of the price is caused by the tax. It is, of course, a mere fallacy to suppose that, because the process is less direct, the

\* See *ante*, p. 351.

duty is not as certainly paid by the consumer in the latter case as in the former. Instead, therefore, of considering the circumstances which attend the collection of the assessed taxes as a disadvantage, we consider them to be precisely the reverse; because we think it highly desirable that the people should be acquainted with the sums which they really contribute towards the expenses of the state. There is also another advantage attending the assessed taxes, too considerable to be passed over in silence, which is, that they are not easily evaded, and that the expence of their collection is comparatively small, being not more than 5l. 15s. 8d. per cent. A variety of objections have, however, been urged against them, the force of which it is our present object to consider.

It has been stated by many members, that they fall oppressively upon the poor. Now, without examining the question, whether those taxes which are charged upon the poorer classes are really paid by them in the end, and without inquiring whether the principle be correct—that is, the principle of taxing the incomes of the rich in a greater proportion than those of the poor;—it may be sufficient to observe, that the fact is in this case mis-stated: since all houses, of which the annual rent does not exceed 10l., are now exempt from the house-tax, and all, in which the number of windows does not exceed 7, are exempt from the window-tax; so that, in fact, the labouring classes, and the very small capitalists, are no longer called upon for any direct contribution towards the assessed taxes\*.

Another argument has been urged in favour of the repeal of these duties, by Mr. Leicester, who is reported to have given it as his opinion, that if “these taxes were taken off, the revenue would lose nothing, as the country would be richer, and the consumption on all hands would be greater†.” Now we cannot imagine that any person who candidly inquires into this subject, will maintain, that the present rate of these duties is so high as in any great degree to limit the consumption of the

articles on which they are imposed. Indeed, this argument, if it would hold at all, seems to be properly directed not so much against the existence of these duties, as against their amount.

There is an important subject, with regard to the house and window duties, which does not appear to have been touched upon by any speaker in the House of Commons, in the course of the debates; we mean the question, On what classes of the community they ultimately fall? It seems to have been assumed by all parties, as a matter of course, that they are in all cases really paid by the persons on whom they are nominally charged; an opinion which we shall easily discover to be far from correct. The house-tax is an annual percentage on the estimated rent. Now in ordinary cases, where a house possesses no peculiar advantages of situation, its rent amounts to little more than the usual profits of stock upon the capital which has been expended in its construction. It is evident, therefore, that in this case no part of the tax can fall upon the owner, because, if it were so to do, the profits derived from this particular employment of capital would be reduced below the usual rate. Since then the tax will not be paid out of the rent of the owner, it must fall upon the consumer, and will operate exactly in the same manner as an increased expence in the annual repairs. When the house is occupied merely as a residence, and not for the purposes of trade, it will fall entirely upon the tenant; exactly in the same manner as duties upon carriages and horses. But when the house is occupied either wholly or in part as a shop or manufactory, the tax will be paid either wholly or in part by the consumers of the goods which are sold or manufactured on the premises; since it must operate in raising the prices of the commodities, exactly in the same manner as a tax upon the machinery by which they are manufactured‡. Precisely the same argument will hold with regard to the window-tax, which, it may be shewn in the same manner, will fall in the one case on the tenant, in the other upon the consumer,

\* We consider this exemption from the window-duty to be peculiarly advantageous in a different point of view; that duty was certainly a tax upon the light and air, and consequently upon the health and cleanliness of the lower orders.

† *Ante*, p. 358.

‡ We of course suppose the trade or manufactory to be of such a nature as to require the residence of some person on the premises, and consequently to subject the building to the house duty.

but never upon the owner. Yet we find Mr. Hobhouse, in his speech, on moving for the repeal of the window-tax, declaring that "no benefit had resulted to the poorer classes from the repeal of the window duties on houses having not more than seven windows, because the tax was paid not by the tenants, but by the landlords\*." We may just observe, that if this statement had been true, it would have furnished an excellent argument for his opponents; but we think we have already said enough to prove that it is incorrect.

We come next to consider the case of those houses, of which the rent does not consist wholly of the profits of the capital expended in their construction, but for which an additional sum is paid by the tenant on account of peculiar advantages of situation. This additional sum is all which would come under the denomination of rent in the strict sense of the term. Now, since the utmost which the tenant is willing to pay for these peculiar advantages, is, of course, obtained by the owner; and since there is no reason why the imposition of this duty should make him willing to pay more; it follows that the tax, so far as it falls upon this portion of the rent, is paid not by the tenant, but by the owner. We see, therefore, how unfounded are the complaints of some of the inhabitants of London and other large towns, who imagine that the house-tax presses with peculiar severity upon them. It is perfectly true that their houses are charged at a higher rate than houses of a similar kind in the country, because they pay a greater rent; but if this additional charge were to be abolished, the tenant would receive no relief, as it would enable the owner to raise his rent just so much the higher. Indeed, we are of opinion, that amongst all the taxes which at present exist in this country, there is none which is altogether so unexceptionable as this part of the

house-tax which falls upon rent strictly so called, as it is paid solely by the owner, and has no tendency either to diminish profits or to increase the price of any commodity. Even by the owner this tax can now scarcely be considered as oppressive, because he has, probably, in most cases purchased the property subject to the tax; and because the duty increases progressively with the increase of his income—an increase which is the effect, not of his own exertions, but of circumstances over which he has no control.

Before we take leave of the subject of the assessed taxes, it will be right to notice an objection to the window-tax on which Mr. Hobhouse has laid great stress in the speech we have already alluded to; that is, its inquisitorial nature. In an inquiry of this kind, too much care cannot be used to avoid being misled by words. *Inquisitorial*, as applied to a tax, is a term which at present is in bad odour amongst the people of this country, from the circumstance of its having been applied to the income-tax; a tax, which, though on some accounts desirable, was on others deservedly unpopular. The slightest reflection will be sufficient to convince us of the enormous difference between these two imposts, as regards their inquisitorial nature. So long as the income-tax was in existence, every individual was compelled annually to make a disclosure of the amount of his income to certain agents of government; a disclosure which might, in some cases, be productive of bankruptcy or other evil consequences; and, in case of surcharge, his only appeal lay to certain commissioners, appointed by government, who generally resided in his immediate neighbourhood, and who might, therefore, in many cases, be influenced by personal hostility, or by local or political prejudices. The only circumstance of an inquisitorial nature about the window-tax, is that an inspector, appointed by government, has the power of entering all houses twice in the year, at reasonable hours, for the purpose of ascertaining the number of windows; a power, which as far as we can learn, has never been abused, and which we cannot imagine to be productive of much inconvenience. Much less can we agree with Mr. Hobhouse, when he asserts, that "he was not exaggerating, when he said, that a gentleman received

\* *Ante*, p. 360.—We have used the term *owner*, in preference to that of *landlord* (as we should gladly, when speaking of houses, have substituted another word for *rent*), in order to avoid confounding the *landlords* and *rents* of houses, with the *landlords* and *rents* of land; between which persons and things the difference is essential. The landlord of a house is, for the most part, in the situation of a capitalist, and his rent is the profit of stock.

"from the tax-gatherer the paper of assessment with the same dread, that a Pacha received the firman of the Sultan \*." Now, if Mr. Hobhouse were really in earnest when he made this declaration, we must conclude, that he attributes the greatest possible degree of mental imbecility, either to the gentlemen of this kingdom, or to the audience which he was then addressing. We would much rather suppose, that he was indulging in a piece of unmeaning parliamentary declamation.

Having thus attempted to shew, that no peculiarly great advantages are likely to result from the repeal of the assessed taxes, we come now to consider the other plan which has been proposed for the employment of our surplus revenue; we mean, a reduction of those duties which are imposed upon our manufactures and commerce. We have already anticipated a great part of what we had to say upon this subject, in our remarks upon equality of taxation. We have there attempted to prove, that it is desirable, that all taxes upon commodities should be reduced, as nearly as circumstances will allow, to an equal *ad valorem* duty. It is unnecessary for us to enter into details, to shew how far the present system of taxation is removed from this desirable state, as the fact is generally acknowledged. It is obvious, that we cannot arrive at our object, except by a long course of progressive improvement; but we may, nevertheless, make an immediate and important advance towards its attainment, by appropriating the surplus of our revenue, to the reduction of those duties which are most high, and consequently most injurious. We shall thus, according to the principles which we have already laid down, confer a considerable benefit upon the consumer at a small expense, and we shall also diminish as far as possible the temptation to smuggling and adulteration. We shall also, by removing restrictions on our commerce, promote an advantageous intercourse with other countries, an intercourse which is highly desirable from its tendency to diminish national antipathies, and to prevent wars; and we shall at the same time be setting a good example to other nations, which it is to be hoped, they will in time be induced to follow.

We shall not, however, enlarge on this important subject, as it belongs more properly to the department of trade.

There remains to be considered an objection against the reduction of duties on commodities, which we have not yet noticed; which is, that the reduction would be beneficial only to the merchant and manufacturer, and not to the consumer. This argument appears upon the face of it so preposterous, that we should not have hesitated to pass it over without notice, had it not been seriously advanced by Mr. Brougham. That gentleman is reported to have said, that

"He thought that it would be much better at once to remove the assessed taxes, than to take away those which pressed indirectly upon the public . . . . Of what use was it to take-off a portion of the tax on any article, when the reduction was met, by a nearly correspondent rise on the part of the venditor?"

We should have thought, that a superficial knowledge of the principles of political economy would have been sufficient to have prevented any person's venturing to assert so untenable a proposition as the one contained in this passage. If it be true, as it was laid down in the *Wealth of Nations*, and as it has been agreed by all political economists for the last half century, that profits are maintained at the same rate in all employments by competition, it must necessarily follow, that when a tax is reduced, the competition of the merchants, or manufacturers, will cause a corresponding reduction in the price of the commodity, since they would otherwise be enabled to pocket more than the ordinary profits of stock. Indeed, on the same principle, Mr. Brougham ought to maintain, that the tax has in all cases been paid by the producer, and not by the consumer, and that consequently its reduction, instead of being a boon to the former, is nothing more than a tardy and bare act of justice, by which his profits are raised to the same level as those of other trades. It may, indeed, be perfectly true, that duties may on some occasions have been reduced, without any corresponding reduction in the price of the commodity; because other circumstances, with which we are unacquainted, may have operated at the same time, to cause a rise of price: it will, of course, be very easy to find instances of this

\* *Ante*, p. 360.

† *Ante*, p. 357.



kind, if we pick out cases in which the reduction has been but small, and where the commodity is subject to considerable fluctuations in price, but it is manifest, that such instances can do nothing to invalidate the general principle. We can also conceive a possible case—though we believe it to be a very rare one, in which the trade might be confined to so small a number of persons, that they might, by combining together, prevent an immediate reduction of price. Such a combination, were it ever practicable, would be necessarily of very short duration; and even this temporary combination might be entirely prevented by a refusal on the part of government, to allow the drawback on the stocks on hand.

Having concluded this part of our subject, it will be seen, that we are disposed to agree with the Chancellor of the Exchequer, as to the propriety of applying the surplus of our revenue to the reduction of our indirect, rather than of our direct taxation; because, on the one hand, we see scarcely any advantage likely to arise from the abolition of the assessed taxes, beyond the mere relief from so much taxation: whilst on the other, we think, that the reduction of some of our enormously high duties will be productive of considerable benefit to the consumer, at small expense to the revenue; will tend to put an end to all the various evils arising from smuggling and adulteration; will promote an advantageous intercourse with other nations, and may be the means of inducing them to follow in our steps. We are glad, therefore, that the Chancellor of the Exchequer has had sufficient firmness to resist the temptation of sacrificing a sound principle to the acquisition of temporary popularity. At the same time, we think he has acted with discretion in abolishing such of the assessed taxes as were productive of a comparatively trifling profit to the revenue, whilst at the same time, they were inconvenient, or vexatious in their operation, difficult, or expensive in collection, or inexpedient from other considerations not necessary to be here enumerated. Such were the house-tax on houses of a rent not exceeding 10*l.* per annum; the window-tax on houses containing not more than seven windows, and the duties on interior windows, taxed carts, poney-carriages, and various other articles, upon which the total loss to the revenue is estimated at 276,000*l.*

Having thus expressed our concurrence in the general principles which have guided the Chancellor of the Exchequer, we must next consider in detail the cases which it has been thought proper to select for a reduction of duty. We shall first consider the arguments which may be urged, for or against a reduction of duty in these particular instances; and we shall then proceed to notice the case of other highly taxed articles, on which the duty remains undiminished. We shall thus be enabled to determine, as far as is in our power, whether the selection of the Chancellor of the Exchequer has, or has not been judicious.

We shall begin with coffee. The duties upon this article were previously to the reduction, as follows:—Upon West India coffee, 1*s.* per lb.; East India, 1*s.* 6*d.*; foreign, 2*s.* 6*d.* They have all been reduced one half, by which it is calculated, that the revenue will be diminished to the amount of 150,000*l.* The principal argument in favour of this reduction, has been deduced from the fact that, since the imposition of the last duty, in 1819, the consumption of coffee has not increased in the same proportion as that of other commodities. This argument derives additional force from the fact, that a cheap, wholesome, and not unpalatable substitute for coffee has been lately introduced; the sanction of the legislature having been obtained for the sale of roasted corn, the use of which was, till lately, prohibited by the construction given by the courts to an act of parliament. There was reason, therefore, to apprehend, that unless the price of coffee could be reduced, its use, amongst a large portion of the community, would be entirely superseded by the introduction of this article. The reduction of the duties on coffee has been further recommended on the ground, that it would be particularly desirable at the present moment, as a boon to the West India interest, who are stated to be labouring under great depression. There is also another advantage attending this measure, which we ought not to pass by unnoticed; which is, that it will tend, in some degree, to place our own possessions in the East and West Indies, as well as foreign countries, on a more equal footing in the production of this commodity. West India coffee previously possessed an advantage of 6*d.* per lb. over East India, and of 1*s.* 6*d.* per lb. over foreign coffee: whereas this

advantage is now reduced to 3d. in the one case, and to 9d. in the other. We trust that we shall, ere long, see them reduced to a perfect equality. Protecting duties which prevent the consumer from purchasing in the cheapest market, are always injurious; and it surely admits of a doubt whether it can, in any case, be desirable to attempt to benefit one portion of our dominions at the expence of another.

Foreign wines constitute another article which the Chancellor of the Exchequer has selected for a considerable reduction of duty. He has reduced the duty upon French wines from 11s. 5½d. to 6s. per gallon, and upon all other foreign wines from 7s. 7d. to 4s.; and he calculates the consequent loss to the revenue at 230,000l. A very strong argument in favour of the reduction of these duties may be derived from the fact, as stated by the Chancellor of the Exchequer, "that the consumption of wine in the United Kingdom had not only not increased, but had, in truth, greatly fallen off." Important, however, as may be this consideration, there are, we think, still stronger arguments in favour of this desirable measure. Considerable as may be the immediate benefits to the consumer resulting from the reduction of this duty, they are, in our opinion, as nothing, when compared with the advantages of an unrestricted commercial intercourse between this country and France, towards which, we trust, we may regard the present measure as the first step.

There are, perhaps, no two countries in the world better suited for an advantageous commercial intercourse, as well by their local situation, as by the nature of their productions, than Great Britain and France. They may be considered as the two most civilized nations of the world; they are situated within a few hours' sail of each other; and at the same time the one is distinguished by peculiar advantages, both natural and acquired, for the maintenance of manufactures; whilst the other abounds in all those natural productions, for which the extent of its territory, the fertility of its soil, and the excellence of its climate so eminently qualify it. With these facts staring them in the face, could it have been believed, that the governments of the two countries could have been so ignorant as to go on, year after year, and century after century, obstinately refusing to avail themselves of

any of those advantages which nature seems almost to have thrown into their hands? Almost every page of our history contains records of ruinous wars with France; wars which have, in many cases, been undertaken almost without pretence, and have been continued without any ostensible object, except that of gratifying the mutual antipathies of the two countries. Even when mutual exhaustion has caused a temporary interruption of hostilities, our legislature, instead of taking advantage of any favourable opportunity of cultivating social relations between the two countries, has in general done all in its power to prevent communication between them; and thus the two nations have stood, like two ferocious animals, eyeing each other with mutual hatred, and only watching for the first favourable opportunity to renew the conflict. For a confirmation of our statement we would refer to the discussions in parliament, as late as in the year 1787, and above all, to the speeches of Mr. Fox at that period. It was on that occasion that Mr. Pitt proved himself the first minister since the revolution, who had been able to carry through parliament a commercial treaty with France. It was, however, vehemently opposed, and at the head of the opposition stood Mr. Fox. Now since Mr. Fox has been generally esteemed one of the most enlightened statesmen of his time, and since he was regarded as the head of what has been called the more liberal party in the country, we may consider him, on that occasion, to have spoken the sentiments of a large proportion, if not of the majority of the nation. Yet we repeatedly find him using such language as this:—

"France was the natural political enemy of Great Britain. What made her so? Not the memory of Crecy and Agincourt; the victories of those fields had nothing to do with the circumstance. It was the overweening pride and boundless ambition of France; her invariable and ardent desire to hold the sway of Europe\*."

And again, "Vicinity of situation, instead of being the means to connect, was what should excite our fear and jealousy†."

We have neither room nor inclination to give a studied refutation of the absurd fallacies contained in these few lines. We shall not, therefore, attempt to shew the folly of the term "natural enemy," nor shall we endeavour to prove how illogical it is to personify the whole changing population of

\* Fox's Speeches, vol. iii., p. 273.

† *Ibid.* p. 282.

an extensive country, and then to attribute to this imaginary being all the evil which has been perpetrated by a number of successive administrations. We quote these passages only for the sake of proving how great was the influence of these prejudices even over enlightened minds, and at so late a period; and we may perhaps be allowed at the same time to congratulate ourselves, that in this respect, at least, our generation has improved on that of our forefathers. We trust, indeed, that the present inhabitants of this country, have tasted sufficiently of the evils of war; and that they have learned, that it is injurious, not only by the immediate loss and misery which it occasions, but also by its tendency to turn aside the attention both of the Government and of the public, from the reformation of their institutions, and from all other subjects of useful inquiry. We trust that it is needless to caution the people both of this country and of France, to beware for the future, as they value their own happiness and that of their posterity, how they suffer themselves to be misled by the empty sound of *military glory*. As a first step towards an entire change of ancient feelings, it would be well for the Governments of both countries to do all in their power to promote commercial intercourse between them; much less for the sake of the immediate advantages of the trade, than for the purpose of promoting such a free communication as must gradually remove those disgraceful prejudices, which have been so long injurious to both parties: and because, by thus rendering the two nations dependent upon each other for many of the comforts and luxuries of life, they will make the evils of war more directly and sensibly felt, and consequently a commencement of hostilities, more unpopular, amongst all classes of society. It is, therefore, with the greatest satisfaction, that we hail the reduction of a high duty on an article of French production, as we trust that it is intended only as the first step towards an entire change of system. Our readers will remark, that French wines still remain subject to a duty of 50 per cent. higher than that which is imposed upon the wines of Portugal or other countries; and that such inequality is utterly inconsistent with the principles which we have endeavoured to advocate. This inequality was originally caused by the Methuen treaty, which was

concluded with Portugal so long ago as the year 1703, and according to the provisions of which, we agreed to receive Portuguese wines at a lower duty than those of France, on condition of Portugal's receiving the productions of our woollen manufacture on favourable terms in return. It is unnecessary to prove that such a treaty must be injurious to both parties, inasmuch as it restricts them from having recourse to the cheapest market. It has, nevertheless, been persevered in for upwards of 120 years. According to one of the stipulations, however, a power was reserved to either party, of requiring a revision of the treaty, by giving a notice of 15 years. At the conclusion of the treaty of 1810, such notice is understood to have been given; and we trust, therefore, that our Government will now avail themselves of the opportunity which is thus afforded them, of equalizing the duties upon all foreign wines, as well as abolishing the monopoly of the Oporto Wine Company; a monopoly which is said to have considerably enhanced the prices of Portuguese wines, by limiting the supply.

There is an objection which might be urged, with considerable plausibility, against a reduction of duty on French wines; viz. that the first-rate claret-vineyards are small in extent, and that, consequently, their produce fetches a monopoly price; and that if, therefore, we reduce the duty, we shall not benefit the consumer, but shall only increase the rent of the French landlord. Now we certainly cannot undertake to assert, that this statement may not be true to a certain extent, with regard to a few of the very first-rate wines. But it appears, that not an hundredth part of the wine which is sold under the names of Lafitte and Chateau Margaux is really produced from those vineyards, and that therefore the monopoly, if it exist at all, is at all events not nearly of the extent which is generally supposed. We may add, that the reduction of duty will, in all probability, have the effect of greatly increasing the consumption of the inferior kinds of French wines, which have hitherto been altogether unknown in this country.

Whilst we are upon the subject of the prices of wine, we would mention, that it would be highly desirable that an *ad valorem* duty should, if it were practicable, be substituted for the present fixed

duty per gallon. We have already said enough upon the disadvantages of inequality of taxation, in the early part of this essay; it is therefore only necessary to add, that by the present mode of collection, the duty increases in but a very small proportion the price of the more expensive wines, whilst it has the effect of entirely excluding the inferior sorts from the British market; and we need scarcely state, that if tolerably good wine could be purchased at one or two shillings a bottle, the consumption would, in all probability, be equally increased, and a considerable addition would be made to the luxuries of a large class of the community. Without an acquaintance with the practical details of taxation, it would of course be presumptuous to give a decided opinion as to the practicability of imposing an *ad valorem* duty upon this article. Since, however, we believe that it is at present usual to taste all wines which pass through the Custom-house, in order to ascertain that they are really the produce of the country from which they profess to be imported, we would ask, whether a plan might not be adopted with regard to wine, similar to that which is at present practised in the case of certain other articles which pay an *ad valorem* duty; that is, that a taster should be employed on the part of Government, that the importer should be required to fix a value upon the wine, and that Government should have the option either of receiving the *ad valorem* duty, or of purchasing the wine at this valuation.

Before concluding our observations on the wine duties, we must advert to what we consider a very unwarranted attack which has been made upon the wine-merchants, both by Mr. Brougham and by Mr. Huskisson. Mr. Brougham stated in the House of Commons, that

"On the morning following the night on which the Chancellor of the Exchequer had announced his intention of taking off 20l. per hogshead from the duties on French claret, he heard that the honest class of his Majesty's subjects, who were employed in selling wine to the rest of his Majesty's subjects, had raised the price of the same wine 10l. per hogshead."

And on the same night Mr. Huskisson stated, that

"He had heard, with considerable indignation (hear, hear), that the wine-merchants had, some how or other, managed, within these few days, to double their stocks, and to raise the price in a ratio about equal to the amount of the reduction of duty (hear, hear) &c."

We were astonished to hear such sentiments from Mr. Huskisson, as they appear to be altogether opposed to the principles which he usually professes. The price of wine, like that of all other commodities, is determined by circumstances altogether independent of the merchants; and it is both useless and unjust to blame them for obtaining the highest possible price in their power. The fact, on this occasion, appears to have been, that the report of the reduction of the duty produced in the first instance so great an increase in the demand, as to enable the wine-merchants to raise their prices, instead of reducing them; but it was obvious that this rise could only be of very temporary duration, because the increased demand having been caused solely by the hope of a reduction in price, when it was discovered that the price, instead of being reduced, had risen, the demand would of course be checked and subsequently diminished. And thus it was found, as might have been predicted, that the evil corrected itself, and that prices fell to their proper level.

There has been some discussion in the House of Commons, during the last session, as to the propriety of reducing the duties upon Cape wines. It has been urged with some force by Mr. Hume, that since the duties upon Cape wines have hitherto been only one-third of those upon Portuguese, and since considerable capital has been invested in their cultivation, in the confident expectation of a continuance of the protection, the Cape cultivator would be unjustly treated, if no corresponding reduction were granted to him. It has been maintained, on the other side, that no actual promise has ever been made, and that all protections of this kind are inconsistent with the principles on which Government is at present acting. The Chancellor of the Exchequer has steered a middle course; he has granted a reduction of duty upon Cape wines, from 2s. 6d. to 2s. per gallon, such reduction to continue till the year 1830. The question was one of considerable difficulty, and we knew not that a better plan could have been adopted. We have in this instance only another proof, that it is not one of the least evils of deviating from the true path of equality of taxation, that we can seldom return to it without doing injury to some existing interest.

The article upon which the Chancellor of the Exchequer has afforded the greatest reduction of taxation is that of spirits; as he calculates that the loss to the revenue arising from the diminution of duty will amount to no less a sum than 750,000*l*. The enormous evils that were caused by the smuggling of spirits and by illicit distillation, especially in Ireland, are too well known to require any enumeration in this place. Accordingly, in the preceding session of parliament, it was determined to make a reduction of duty upon Scotch and Irish spirits, from 5*s*. 6*d*. to 2*s*. per gallon, and this reduction has been attended by the happiest effects. Now it was obviously absurd, when the duty was only 2*s*. in Scotland and Ireland, to retain it at the high rate of 10*s*. 6*d*. in England; and, accordingly, the Chancellor of the Exchequer has determined to reduce it in the first instance to 5*s*. 10*d*.; and also to throw the trade more open, by allowing the use of smaller stills than were permitted heretofore, and by removing certain other restrictions on the manufacture.

We have heard of no objections against this desirable measure, except one which has been advanced by Mr. Wm. Smith; which is, that the reduction of the duty on spirits would, by diminishing the price, tend to encourage the vice of drunkenness amongst the lower orders. To this it has been replied by Mr. Hume, that in France, Holland, and the United States of America, where spirits are cheap, drunkenness is comparatively unknown. We might add, that, even if we allow the force of Mr. Smith's argument to its fullest extent, we should still be of opinion that the encouragement which high duties afford to smuggling is far more injurious to the morals of the people, than the effect of low duties in rendering the means of intoxication cheaper: we cannot, moreover, but believe, that the only effectual mode of promoting morality is by the diffusion of knowledge, and that those persons take a very narrow view of the subject who would enforce its practice by sumptuary laws or compulsory enactments.

The cider duties have been reduced from 30*s*. per hogshead to 10*s*. This reduction is highly desirable, inasmuch as cider is the liquor ordinarily drunk by the population of six counties, throughout which it is notorious that smuggling has been carried on to a considerable extent. The

loss to the revenue is estimated at only 20,000*l*.

Having now examined separately the case of each of those articles which the Chancellor of the Exchequer has selected for a reduction of duty, we must, in the next place, notice certain other highly taxed commodities, in respect to which, according to many speakers, the claims should have been considered as more urgent. The principal of these are tobacco, soap and candles, and tea. It is stated by Mr. Hart Davis, that the duty on tobacco is not less than 1200 per cent. upon its original value, and that the revenue derived from it had not increased as it ought to have done. There appears to be no doubt that this high duty has been the cause that the consumption of tobacco in this country is so much less than on the continent. The duty upon soap and candles amounts to 120 per cent., and it is stated by Mr. Sykes, the member for Hull, that there is great reason to suppose that the articles, or their raw materials, are the objects of extensive smuggling. The duty upon tea is nominally 100 per cent.; but, in fact, it is much more. The East India Company possess an entire monopoly of this article, and it is found by a comparison of the prices at which tea has been sold at their sales in London, and those at which it may be purchased on the continent, that the people of this country pay, as consumers of tea, a tax of upwards of two millions annually for the sole profit of the East India Company\*; and since the *ad valorem* duty to Government is charged upon the price so increased by this tax, it is obvious that it is in reality much more than 100 per cent. There is every reason to suppose that much smuggling must be caused by so high a duty, and we know from the repeated convictions, that the adulteration of tea has been carried on to a very great extent.

Now it is manifest, that so long as any commodities are taxed to such a high degree as in the instances which we have given, the prevention of smuggling must be impossible, and the exertions, both of the Chancellor of the Exchequer and of the President of the Board of Trade, towards this desirable end, must be attended with but imperfect success. At the same time we admit, that it is not possible to do

\* See Ed. Review, vol. xxxix. p. 460.

every thing at once, and we will not undertake to assert that the best selection has not been made, although the cases of coffee and hemp (concerning which we have not entered into any minute examination) would certainly appear to be less urgent than those which we have mentioned. When taxation is so enormously high, as in the case of tobacco, a beginning might certainly be made with little or no loss to the revenue; and we cannot understand the reasoning of the Chancellor of the Exchequer when he asserts, that to reduce the duties on this article to a less amount than 50 per cent. would afford no benefit to the consumer\*. The benefit to the consumer would be at least proportionate to the amount of duties reduced.

A motion for the repeal of the beer duties was made in the course of the session by Mr. Maberly. It appears that the consumption of beer has increased but very little for the last century, whence we may conclude, either that the duty must be too high, or that there must be something peculiarly disadvantageous in the mode of its collection. The late reduction of the duty on spirits also forms an additional argument in favour of the abolition of the beer duties. But it is not so much of their absolute amount that we complain, as of their unequal pressure on the different classes of the community. The fact is, that there exists a tax to the amount of 20s. a quarter on malt, and another tax of 35s. upon beer; so that, in truth, the rich man, who possesses the means of brewing his own beer, contributes only 20s. towards the revenue, whilst the poor man, who is obliged to purchase his beer at a public-house, pays 55s. Such a mode of taxation is, at any rate, unjust; and we can see no reason why the whole of the duty might not be imposed upon the malt. Nor can we understand the Chancellor of the Exchequer when he asserts, that if this were done "the consumer, although "he would have the satisfaction of paying more, would himself pay nothing "less &c." It may be true, that the relief to the poorer classes might not be so great as is supposed; but surely all that would be lost by the one class must necessarily be gained by the other.

There remains an observation, with respect to a certain class of commodities, to which we trust that the attention of the Chancellor of the Exchequer will be called. It is often usual to impose a duty upon the manufacture, and afterwards to return this duty on exportation, under the name of a drawback. Now there are some articles of which a considerable proportion of the whole amount are intended for exportation, and it is manifest, that in this case a considerable loss is occasioned, not only by the expense of first collecting, and afterwards refunding the duties, but also by a larger amount of capital being thus required, in order to carry on the business. This is the case with printed goods, on which not less than two-thirds of the duties received are returned in the shape of a drawback.

In concluding our observations we will repeat, that we are disposed to give Mr. Robinson full credit for the change of system which he has introduced, and for the sound principles which have in general guided his conduct. We are not amongst those, who (to use his own expression) would ride a willing horse to death, or who, because every thing is not accomplished which they might have hoped for, would pass over without commendation, the improvements which have indisputably been effected in our financial system. But at the same time we would warn him, that much yet remains to be done, and that until he has applied his principles more universally, many of his measures will be attended with only partial success, his motives will be liable to misrepresentation, and his conduct will be subject to the charge of inconsistency. We trust, therefore, that he will proceed firmly, but cautiously, with the good work which he has before him, and that he will thus acquire not a mere temporary popularity, but a permanent and honourable reputation, founded upon the merit of having been the first to reduce to practice those sound principles which are the only secure basis of national prosperity.

II. HAVING investigated, in the preceding section, the best means of raising a revenue for the purposes of government, we propose, in the remainder of this essay, to examine the propriety of imposing

\* *Ante*, p. 358.

† *Ante*, p. 363.

those duties for the protection of manufactures and the benefit of trade, which form so conspicuous a feature in our commercial regulations. The various branches of political economy, in spite of the analytical nature of the science, are so interwoven with each other, that no single part can be understood without a previous knowledge of the whole. This peculiarity, which constitutes the great difficulty of discussing any separate division of the science, without obscurity or diffuseness, will oblige us, for the sake of avoiding both these faults, to refer to some of our previous reasonings, connected with the present question.

The principal questions to be considered, with a view, not only to Mr. Huskisson's measures of last session, but to the adoption of a system of unrestricted trade, are two: 1. The means of facilitating the importation of such foreign commodities, as have been hitherto produced at home, under the protection of restrictive or prohibitory duties: and, 2. The means of discouraging the production of such domestic articles, as have been hitherto produced, either for home consumption or exportation, under the protection of bounties, privileges, &c.

In our remarks on the Colonial Trade bill, we have analysed, at some length, the effect of importation duties\*. We contended, that a partial admission of foreign commodities into any country cannot be effected by such means; and that where greater facilities for production exist abroad, importation duties can never act as a medium between the prohibition of a foreign, and the destruction of a home branch of manufacture. Though this be strictly true in the case of manufactures, in which there exists no inequality in the facilities of production—in which, unless a man can afford to produce at a given cost, he cannot afford to produce at all;—the proposition admits of qualification in respect to those commodities which yield a *rent*. Thus, it is well known, that the free admission of corn would only throw out of cultivation the land yielding the least return, and diminish to that extent the amount of rent paid on the superior soils. Mines also, inasmuch as they are unequally productive, are in the same situation as land: it is the increased demand that forces a recurrence to inferior mines, and creates a

rent in those of superior productiveness. In truth, there is no difference between the phenomena which attend the working of mines and the cultivation of land, except that the produce of the latter being indispensable, the universal rate of profit is regulated by the cost of growing corn on the least fertile soil, and not by the cost of raising ore from the least productive mine.

An attention to the different effects produced by importation duties on those articles, which may be said, by a phrase not strictly accurate, to yield a rent, and those of which the price is wholly compounded of wages and profits, is peculiarly necessary in the present instance, not only to understand the causes of the different operations which we think likely to ensue in some of Mr. Huskisson's measures, but also to acquire just ideas upon the mode of protecting home manufactures and the ultimate emancipation of trade. On this principle we cannot but approve of the admission of foreign iron, copper, and tin, under a duty, which really *protects* the mass of home producers and owners of British mines, precisely as a duty on foreign corn would protect the British farmer and landlord.

In the instance we allude to the remedy adopted is at once simple and rapid; a gradual diminution of the duty will gradually remove the evil, whilst it injures few, ruins none, and benefits many. We must not omit to mention that the short debate on this subject presents the agreeable instance of one of the most extensive iron masters (Mr. Alderman Thompson) defending a measure, productive of at least some temporary injury to himself; an act, however, as little appreciated as it is rare†. In the present instance, at least, it was unaccompanied by any similar example. Nay, it did not prevent Sir H. Vivian from contending that the importation of South American copper, would destroy the value of the Cornish mines‡: an argument, which, to say nothing of its inaccuracy as to the *fact*, is only admissible on the supposition, that the productiveness of all those mines is exactly the same, and that the least valuable of the mines now wrought in South America is more productive than the richest in Cornwall.

In all cases, therefore, where a rise in the price of a commodity is the effect of

\* *Ante*, p. 634.

† *Ante*, p. 356.

‡ See *ante*, p. 373.

a diminished facility of producing it—a rise in price which is always followed by a rise in rent—if the foreign commodity of the same kind be excluded, or burdened with a high duty, a gradual reduction of the duty, whilst it removes the evil, alleviates, if it does not prevent the injury attendant on a sudden repeal of the restriction; as it throws but a small part of the class engaged in producing the commodity out of employment at every successive step in the reduction of the importation duty, and dislodges or impairs but a small portion of capital. But with manufacturers, the difficulty is greater. A diminution of importation duty on a foreign article, however gradual, will not, as we have already seen\*, produce any effect at all, without destroying the domestic manufacture. The means, then, by which this evil may be prevented, or at least in a great measure diminished, is the great desideratum; and although it is not without diffidence that we hazard a suggestion, we think it right to state our opinion; especially as we are fully assured of the fallaciousness of Mr. Huskisson's plan of protecting duties on importation.

If a commodity of home production must be sold at a certain price, in order that the producer may realize the usual rate of profit; we say, that the admission of the same commodity from abroad under any duty (it matters not how great) which should enable the foreign to undersell the British dealer, would have the effect of driving the latter from the market. If the duty were so high as to prevent the foreign from selling at a less price than the British dealer, the foreign dealer would have no motive for entering the market at all; and such a duty would be tantamount to a prohibition: but if the duty would allow him to undersell, then, as there cannot be two prices in the same market, and as his prices would and must be lower, there would be nothing to prevent him from furnishing the whole supply and depriving the British dealer of his custom.

The supposition upon which importation duties have been imposed, seems to be, that they would limit the foreign supply. That, in fact, is precisely what is wanted, although it will not be effected by importation duties. It would, however, be effected by fixing the quantity,

in which the imported article should be allowed to enter the British market.

The effect of a partial admission of a foreign commodity on prices in the British market, whatever might be the difference in the comparative costs of production, at home and abroad, would depend entirely upon the quantity of the article admitted. For instance, suppose the home demand for silk to require a supply of 10,000 pieces a-year, which the home producer could not afford to bring into the market at a lower price than 60s. per piece; if a small quantity, for instance 500 pieces, of silk were admitted from a foreign country, where the cost of production was lower than at home, the effect would be a general fall in the price of the commodity: there would be a supply of, or the power of supplying 12,500 pieces, and a demand only for 10,000†. The fall in price would displace so much capital at home as might be necessary for the production of 500 pieces of silk; but as soon as that capital should be displaced, and the supply restored to its former level, prices would also rise to their former rate, and 500 pieces of silk might thenceforth be constantly imported every year without producing any further effect on prices. By this operation a twentieth part of the capital would be turned over to more productive employments, at a comparatively small loss to the owner, and, of course, none to the public. In the course of time 500 additional pieces of foreign silk might be let in with a similar effect, and by further repetitions of this operation—by a gradual increase of the quantity imported, and a corresponding decrease of the quantity produced at home, the transfer of the whole capital employed in the domestic manufacture, might be effected without ruin to its employer or injury to the labourer by the sudden change which attends an unlimited importation.

It may be urged, that as the supply furnished by the home producer was adequate to the demand, the supply from abroad, however limited in quantity, would produce a glut, and thereby depress the price of silk as much as an unlimited admission of foreign produce, under an importation duty: the cases, however, are distinct; a glut is but temporary, and the removal of a small portion of capital

† We suppose the demand invariable, for the convenience of the argument.

\* See ante, p. 634.



would speedily raise the price of the article to its former level, since the foreign supply alone would be inadequate to meet the demand. Not so in the case of the unlimited admission of foreign silk; the transfer of the whole capital embarked in the home manufacture would not alter the price, which in that case would be regulated by the cost of production to the foreign trader, as in the former case by the cost of production to the home producer.

Beneficial effects also might be anticipated from the foreknowledge of such admission; which, as it would suggest the probable occurrence of the glut, would induce all persons, having favourable opportunities, to transfer their capital; leaving to those who were either unable or unwilling to withdraw from their business, an unaltered price and undiminished profits; while, on the other hand, a foreknowledge of the *unlimited* admission of foreign silk, subject to a duty, would be of no avail: since it would induce all to transfer their capital as speedily as possible, and would be followed by nearly the same effect as the actual appearance of the article in the market. Add to this, that, in the case of an admission limited in quantity, the Government, having the power of regulating the admission, might assist the producer or consumer, according to the exigency of the case, by lessening or increasing its amount at their own discretion; in which respect, the market-price of silk would afford a perfect guide. We trust we have said enough to shew the beneficial results of a limitation in the *quantity* of imports, as compared with an importation duty. The object might be attained by the warehousing system, from which so much benefit has been derived to our restricted trade; precisely as in the case of foreign corn, of which, when the price is lowered by a sudden influx, the surplus is warehoused, in a manner too well known to need any description here.

It may be considered as a further recommendation of the plan for limiting the quantity of those imports in which a perfectly free trade would be immediately ruinous to the home producer, that such imports might be charged with a duty, during the time of their limited admission, which would be wholly free from the usual objections to custom-house duties. In fact, it would be free from all objec-

tion: such a duty would emulate, in some degree, the perfection of a seignorage, of which no one feels the burthen; since, though the consumer really paid it in the increased price of the article, that price would be kept up for the greater interest of the home producer. This case, then, forms an exception to what we hold to be a general principle; viz. that taxes, for purposes of revenue, whatever be their amount, should be what are called *direct*, and levied on every individual in proportion, as near as might be, to his income.

Such, then, we conceive to be the safe and proper mode of introducing a system of free trade with regard to those domestic articles which have heretofore been guarded by prohibitory duties from the competition of the foreign dealer. We shall not enter, in this place, into a detailed consideration of the cases selected by Mr. Huskisson, as the subjects of his act of last session; which, indeed (with the exception of the metals, and those we have already noticed), present but little matter for remark. We have been more anxious to expound the principle upon which all such changes should be made; than to criticise the particular instances comprised in Mr. Huskisson's measures of last session.

Passing over, therefore, the articles of greater importance, of which we fully approve the selection, whatever we may think of the plan upon which the reform is conducted; we may remark, that with regard to many other articles of less importance, Mr. Huskisson seems to have pursued a very judicious course.

Such has been the extravagant jealousy of the British manufacturers, and the ignorance of the legislature, that it is difficult to name any article of foreign production which has not been set down in the book of rates, and charged with an importation duty. For greater certainty, and to avoid the possibility of danger from the untaxed admission of any species of foreign manufactured produce, there was "a sweeping clause at the end of that book," which provided that all goods, wares, and merchandize, either in part or wholly manufactured, which should not have been enumerated in the book of rates, should pay an importation duty of 50L. per cent. on their estimated value; and by a further clause, a duty of 20L. per cent. was imposed upon all

non-enumerated articles which were manufactured neither wholly nor in part. With respect to these articles, Mr. Huskisson said, that

"He proposed to reduce the duty on manufactured articles, not enumerated, from 50l. to 20l. and on articles unmanufactured, from 20l. to 10l. per cent. The result of these alterations would be, that upon foreign manufactured articles generally, where the duty was imposed to protect our own manufactures, and not for the purpose of collecting revenue, that duty would, in no instance, exceed 30l. per cent. If the article were not manufactured much cheaper or much better abroad than at home, such a duty was ample for protection. If it were manufactured so much cheaper, or so much better abroad, as to render 30l. per cent. insufficient, his answer was, first—that a greater protection was only a premium to the smuggler; and, secondly, that there was no wisdom in attempting to bolster up a competition, which this degree of protection would not sustain. Let the state have the tax, which was now the reward of the smuggler, and let the consumer have the better and cheaper article, without the painful consciousness that he was consulting his own convenience at the expense of daily violating the laws of his country" (*ante*, p. 368).

There can be no doubt that, in cases like these, the duty should be wholly removed. In almost all such cases, the protection to any home manufacture is merely imaginary, and the duty is nearly unproductive for the purpose of revenue. Its only effect is to render the custom-house accounts more complex, and to generate a race of smugglers.

But these are not the only instances in which our custom laws bear marks of having been framed by persons wholly ignorant of the principles of trade. While the principal revenue is received from scarcely 20 articles, the list of enumerated commodities, which pay duties, occupies the space of 34 folio pages\*. Of so copious a catalogue it is evident that the greater part cannot be in very great request; and thus the Government enhances the price of such commodities to the small class of their consumers, not to mention the delay, vexation, and loss, which must frequently attend the collection of such duties.

Thus, for instance, there are duties on

	£.	s.	d.	
Angelica, yielding	254	15	10	per ann.
Pearls . . . .	325	10	7	
Resin . . . .	55	7	7	
Whalefins . .	1,329	4	2½	
Red and Bar Wood	448	2	4	

\* *Vide* Supplement to the Votes and Proceedings of the House of Commons, May 10, 1825, from p. 493 to 528.

	£.	s.	d.	
Eels . . . .	822	18	9	per ann.
Oysters . . . .	0	9	0	
Other Fish, Anchovies	69	8	7	
Myrrh . . . .	822	0	4	
Ochre . . . .	894	11	8	
Arsenic . . . .	657	6	0	
Cranberries . .	803	0	11	
Dye Woods Brazillato	135	13	8½	
Cam Wood . . .	422	4	5	
Ebony . . . .	109	11	2	
Lignum Vitæ . .	328	5	5½	
Muss Rock . . .	708	5	8½	
Olives . . . .	724	1	1	&c.†

We have here selected a few of the most glaring instances; but, were we to particularize all, it would be necessary to copy four-fifths of the whole table. Were all duties abolished on commodities yielding a revenue under 100,000l., the finances of the state would be but slightly impaired, while the convenience to trade and the advantage to the consumers would more than repay the sacrifice.

We shall now proceed to consider the second of the two questions with which we commenced this section;—the question regarding Bounties.

As the system of Bounties is founded on the assumption that certain peculiar branches of industry are more beneficial to the country than certain others, it will be useful to point out, in a few words, the fallaciousness of that opinion. Without insisting further on a subject that admits of elaborate proof, it may be shortly stated, that every permanent increase of population is preceded by an increase in the capital of the country. The rapid progress of population in all new countries, and wherever capital augments rapidly, is a proof that to whatever extent the accumulation of capital may produce a demand for labour, to that extent a supply of labourers will speedily appear. The danger is all on one side: the only danger to be apprehended is from the too rapid increase of people as compared with the permanent demand for labour, and the consequent suffering and degradation which must ensue to the labouring class from a diminution of wages. The community, then, is only benefitted by a constant augmentation of capital, which can solely arise from savings out of the profits of capital.

† *Vide* Finance Accounts for the Year ending Jan. 1825, p. 39, *et seq.*

This augmentation will be most rapid when profits are highest; that trade, therefore, which is most profitable to the individual, is most beneficial to the country; and the greatest advantage that can befall a nation, is a permanent rise in the average profits of stock. Now, as encouragement to any particular trade cannot influence the general rate of profits, it can in no wise tend to produce the only result from which the people receive real benefit. A bounty is the converse of a tax, and, consequently, as it lessens the cost of production, it diminishes price to the amount of the bounty paid; but, as the bounty itself must be raised by taxation, the price of the articles on which it is levied must be raised to the same extent, as the commodity, on which the bounty is paid, will be depressed: for competition will not allow either the profits on one to be below, or on the other to be above the average level. Thus, if a tax of 100,000*l.* were annually levied upon shoes, and paid as a bounty upon the production of stockings, the price of shoes would rise in proportion to the fall in stockings; and no one would be able to clothe his legs a whit the cheaper: on the contrary, the expence would be rather increased, for, as the tax cannot be raised without expence, the bounty paid must fall short of the tax levied; and the difference would be so much lost to the consumers of shoes and stockings. As what is paid must have been received, whatever is gained by one party is lost by another: if more stockings and fewer shoes are consumed, either the bounty must be diminished, or the tax increased, or transferred to some other commodity; and the community would neither gain nor lose.

It is not our intention, nor is it within the scope of our discussion, to trace the various and interesting effects produced upon wages and profits, according as the bounty is paid, or the tax levied upon commodities which are principally consumed by labourers or capitalists. It is sufficient for us to shew that it cannot benefit any class, without equally prejudicing another; and that the mass of the production of the country remains unchanged: still, however, as it alters existing relations, as it may cause a transfer of capital and some consequent loss, and as it causes an expenditure, however slight, without return, it is accompanied by some

evil. Such are the results of bounties paid on production. But bounties on exportation have a very different and worse effect, though by the operation of the same principles. Such bounties tend to lower the price of the article on which they are bestowed, not for the home, but for the foreign consumer. If Great Britain paid a bounty of 3 per cent. above the cost of carriage, on the exportation of a commodity to France, for the production of which each country possessed the same advantages, the latter deriving her supplies from the former, would withdraw her capital from this employment, to which the capital of Great Britain would be attracted. The demands, however, of the domestic consumer would remain unaltered, and must be met by imports from abroad, for which payment would be made in the commodity encouraged by the bounty. The French capital withdrawn from the production of this very commodity, would either directly, or through the intervention of some other country, supply the unsatisfied demands of the domestic consumer, by which process an additional 3 per cent. would be gained on that capital; while at home the sole result would be to increase the quantity produced of the encouraged article, without altering the cost of production. The foreign consumer would save the bounty for the purchase of other commodities, or the accumulation of capital; while the home consumer, forced to pay dearer for some articles, and cheaper for none, would suffer under a needlessly limited command over the objects of desire, and a diminished power of accumulation.

What is true of bounties is equally true of drawbacks; though the latter may bear an appearance of justice, and the former of favour, the effects are the same. Drawbacks are but equivalents on exportation for duties on importation, and in no wise affect the price in the home market, which is determined by the cost of production. In excised articles, where the duty levied in one stage of production, is partially returned in a succeeding stage, it is immaterial to the consumer whether this surplus be levied and repaid, or altogether omitted.

As bounties and restrictive duties correspond in their operation, so are they to be removed by similar remedies. The first step of a *gradual diminution* of a bounty, would destroy the foreign demand; while the fixing a decreasing li-

mit to the quantity, on which the bounty should be paid, would gently and effectually remove the evil, by the operation we have already traced, when describing the effect of an *increasing* limited admission of foreign goods, on the home producer. Fortunately the actual evil is less in the case of bounties, than in that of restrictive duties, as the principle is little acted on; still, however, as upwards of one million is annually paid in the shape of drawbacks on the customs alone\*, and more than two millions on the excise†, beside bounties on sail-cloth, cordage, linens, and sugar, it is by no means so slight an evil as to be unworthy of attention. If the necessities of government require a revenue, let it be raised; but let not unnecessary sums be exacted, for the purpose of either altering the due relations in the production of commodities at home, or to enable other countries to buy them, at less than their natural price.

What was done with regard to bounties in the last session, is too trivial to need remark; we have mentioned the subject, rather with an eye to what may be done hereafter, than what has been attempted hitherto.

As the increase of capital is, or more properly ought to be, the great end of commercial regulations, one of the main objects which should never be lost sight of by the legislator, in altering or framing such regulations, is to avoid as much as possible, that partial destruction of capital, which almost necessarily attends its transfer. The destruction of capital is one of the few necessary evils that occur, even under the most perfect system. A demand for the necessities of life, as they are indispensable, admits of little fluctuation; but the constant variation in the taste for luxuries, and the uniform progression of human skill, unite unavoidable evils with the most beneficial effects; and the fashion of a day, or the alteration of a wheel, may render large masses of capital useless, and the skill of the la-

bourer unavailing. These necessary losses, attendant on the whims and improvements of the world, are but slight, when compared with the evils which arise from the fatal propensities of those who govern mankind. The commencement, or close of a single war, produces more extensive injury, from the loss of capital, consequent upon the alterations in the channels of trade, than the mechanical improvements of a century, without their ulterior advantages; and the taxes of government, as transitory and whimsical in their nature, but of more extensive operation than the fashions of ages, render great portions of capital valueless, and by disturbing the natural relations of commerce, lay the foundation of still greater losses to come.

The time, however, we may hope, is not far distant, when the artificial impediments, opposed by mistaken legislation, to the natural courses of industry, which are, with scarcely an exception, the most profitable, will be at last removed. It has been our endeavour to point out the way in which they may be removed, with the least immediate loss. If the sole object be free trade, that may be best attained by repealing all duties, whose abolition would cause no change in the direction of industry, and withdrawing, by a gradual operation, the capital of the country engaged in constrained employments. If the object combine revenue with the ultimate emancipation of commerce—as it must do, at least for a long time, in a country overloaded with taxes, like Great Britain, recourse must still be had to the same mild but efficient remedy. While emancipating fettered industry, revenue should be obtained from such duties, as are not followed by a forced and unnatural distribution of national capital; so that, when the revenue ceases to be necessary, or is derivable from other sources, the immediate removal of the duties may confer a permanent benefit on the community, unattended by individual suffering. In either case, the ultimate object should be the entire removal of commercial impediments; that the productions of every corner of the globe, may be distributed according to the wants and desires of nations, and not according to the caprice of Ministers of Finance, and the rules of the book of rates.

At present our commerce is far removed from this desirable state. The old

\* Finance Accounts for the year ending January 1825, p. 48.

† Finance Accounts for the year ending January 1825, p. 68.—It is true, however, that in the excise the principal part of the sum is merely repaid to the person who paid the tax at an earlier period.—What are the several amounts it is scarcely possible to ascertain: of course our arguments only apply to the residue.

principle, which ascribed the benefits of trade to a surplus of exports over imports, supposed to be paid in money, as it produced, still pervades our commercial system. This fallacious doctrine, which nearly every writer from Locke to Adam Smith, has successively exposed, and to which the increase of the capital of this country to the extent of many millions, while the currency has only increased by some thousands, has added so effectual a refutation, retained its place in all the measures of government, from its open recognition by the Methuen treaty, down to its virtual rejection by the colonial bill of the present Government. Almost without our own recollection, we find Mr. Fox avowing a theory, which supposes a perfect ignorance of the common principles in a science, without a knowledge of which, a man may become the successful leader of a faction, but will never be fit for a legislator. In his speech on the commercial treaty with France (Feb. 12, 1787), Mr. Fox observed, that,

"With respect to the equivalent, which we were to have for the reduction of the duties on French wines, so as to admit them more freely into our ports, what article had we the privilege of exporting into France? He knew of none. It appeared to him, therefore, *an advantage given to France, without the least sign of an equivalent.*"

We must not, however, impute too much superiority to the present House of Commons, over that of 1787, because we have a Chancellor of the Exchequer and a President of the Board of Trade, who have at last acquired more enlarged ideas, and adopted a more liberal practice than their predecessors. The majority of the house, and, what is worse, a large body of the merchants out of doors, still adhere to the principle of Mr. Fox. In his speech on Foreign Trade, Mr. Huskisson observed, that,

"He expected a further objection—indeed he had already been told, in the correspondence which he had felt it right to hold with some of our most intelligent and accomplished merchants and manufacturers, on this subject—that in 1786, we had insured from France, by treaty, a reciprocity of commercial advantages; but that, at present, we had made no such arrangement\*."

Be it remarked, that we have already had occasion to animadvert upon this very fallacy—and a most absurd one it is—from the lips of Mr. Huskisson himself.

As a further proof of Mr. Huskisson's

remark, we may observe that, whenever the members of the House of Commons represent anything "but their own pockets," as one of them facetiously terms it; whenever their language in the house is influenced by the opinions of their constituents—we uniformly find them emitting the most unwholesome notions on the subject of trade.

Thus the member for Truro is alarmed at the introduction of foreign copper†: the member for Staffordshire demands protection for crockery§: the member for Rippon considers that woollen goods are neglected||: the member for Bristol demands attention to the West India trade¶: the member for Newcastle complains of the duty on Northumberland coals\*\*; and the members for Westminster, London, and Bristol††, declaim long and loudly against assessed taxes. All, however, as if desirous of delivering themselves from the imputation of downright imbecility, agree in praising the general tendency of Mr. Huskisson's measures.

This language will, of course, continue till the people become more instructed. In the mean time, it is fortunate for the country, that what, in this instance, public opinion is not sufficiently enlightened to effect, is likely to be in part, at least, accomplished by the enlarged views and liberal ambition of individuals. It is to ministers like the Chancellor of the Exchequer, and the President of the Board of Trade, that we may look for the final renunciation of the principles of the mercantile school of commerce. Their continued exertions cannot fail to produce a beneficial change, not only in our commercial policy, but in the state of public opinion. In the debates which have taken place upon the propositions they have severally brought forward during the last two or three sessions of parliament, the speeches of those gentlemen have formed, both as to the matter conveyed, and the mode of conveying it, a striking contrast with the ordinary style of House of Commons' oratory. The prepared speeches of the Chancellor of the Exchequer are models of the useful style. If his practice continue worthy of his speeches, we shall not despair of the consummation we have long desired, when the ignorance

‡ *Ante*, p. 373.

¶ *Ante*, p. 355.

§ *Ante*, p. 373.

\*\* *Ante*, p. 376.

|| *Ante*, p. 373. †† *Ante*, p. 359, 360, 361, &c.

\* *Ante*, p. 369.

† *Ante*, pp. 636, 637.

and the rhetoric of the brilliant talkers of the last century will give place to solid information and a sober style of delivery; a consummation which will convert the House of Commons from a debating club, into a place for the sober transaction of public business.

### *Navigation Laws.*

AMONGST the numerous objections adduced against the recent propositions for establishing an open trade with our colonies and foreign countries, there is one, which from its extent and speciousness seems to call for some notice here, although but little prominent in the debates; we mean, the Navigation Laws. Our remarks, however, will rather be proportioned to the space which that subject occupied in parliament, than to its actual importance: and we shall rather touch upon it for the purpose of pointing out the insufficiency of the reasons alledged in defence of the Navigation Laws as an objection to a free trade, than handle it with any view to expound a system of our own.

Putting aside all other evil consequences of the new commercial system; its evil consequence to our navy, and thence to the security of our shores, by undermining our most effectual means of defensive warfare, is alleged to be conclusive against its adoption.

Other objections are, for the most part, of a partial nature; being drawn only from particular evils, and applying to particular measures. But this objection overrides the whole subject, and is only satisfied by a total rejection of the principles of free trade.

The proposition is simply this.—The essential defence of the country, in time of war, is the navy: The efficiency of the navy depends on the supply of efficient sailors; for the furnishing of which, we must depend on the merchant service. The admission of foreign vessels to a participation of the carrying trade, by limiting the demand for merchant shipping, has a tendency to destroy the sources which supply our naval marine; whence it follows, that a system of free trade (from which a competition between the merchant service of foreign countries and our own must unavoidably spring up) is incompatible with the safety of the empire in time of war.

This reasoning, if correct, is undoubtedly worthy of consideration, although it would not, we think, be found conclusive. As we do not propose at present, to inquire into the state of our naval establishment—an inquiry which we reserve for another time; we shall confine ourselves to the two leading topics which the foregoing statement suggests.

First, then, we deny that part of the premises, by which it is assumed that the competition of the shipping of foreign nations would narrow the employment of our own. Undoubtedly the effect of a free intercourse with foreign countries, by increasing the amount of exports and imports, might enable those countries to extend their mercantile marine; and if it should happen that their governments should continue, with regard to our shipping, the system which we have so long enforced against their own, it is possible that our merchant vessels would not increase in the same proportion. But how should they be diminished? From what department of the carrying trade should we be driven, which we now enjoy? Is it possible to suppose, that any nation in the world—not even excepting the United States—possesses so great a superiority over us in skill or capital, as to compete with us on our coasts, in our fisheries, in our trade with the West Indies and the two continents of America, or in our commerce with the East? Or is it not rather more than probable, that with our present advantages, augmented by the removal of restrictions, of which the tendency of many is to raise the price of the materials of shipping—as, for instance, the preposterous duty on European timber, in favour of the Canadian monopoly—is it not more than probable that it is we who should drive the vessels of other nations from the maritime trade, and monopolize the seas by dint of successful competition, as we have formerly done by exclusion or force? It shows but a small acquaintance either with the principles of trade, or the peculiar facts relating to the state of our merchant service, to entertain the contrary apprehension.

But granting, for a moment, that the decay of our merchant service, would ensue from a change in the Navigation Laws: Is it certain that such an event would be followed by a decline of our naval superiority? We think not. We see no essential connexion between the

prosperity of the one service and the other. The experience of the merchant service is no necessary preparative for navy sailors. They may be reared as well, or better, in the naval service itself. All that is necessary for keeping up an effective supply to meet the sudden exigency of a declaration of war, is the establishment of a sufficient *school*—an increase in the present naval force, and the appointment of a larger number of men to the King's ships, in time of peace. We are of opinion that this plan should be adopted, independently of commercial views, for the purpose of preventing or diminishing the practice of impressment; a practice which has long been the disgrace of the British navy: but dismissing that consideration for the present, we maintain that the plan suggested would amply provide for the naval service of the country, and obviate all objections to the emancipation of our foreign and colonial trade, which are based on the Navigation Laws.

But this plan is an expensive one:—Granted. If the estimates of the Navy, which amounted last year to something less than 6,000,000*l.*, be doubled—it will be admitted that, for such a sum, the plan might be effected. If so, the objection on the side of expense is unworthy a moment's hesitation: It has been calculated—and the calculation is accurate enough for the purpose—that the tax levied by the operation of the Corn Laws on British grain amounts to 15,000,000*l.*\* This tax is now raised for the exclusive advantage of the landlords. Something more than one-third of it would suffice for the maintenance of the force proposed to be added to the navy, and the people would still be relieved by the adoption of a free trade in corn, from the burthen of the remaining two-thirds. This, however, though the most prominent, is but a single instance of monopoly. It is evident, that whatever is paid by the public for any article of consumption, when raised by the restrictive system, above its *natural* price, is a tax which in no way differs from the taxes paid to the state, excepting that in every case but that of corn, it is paid into no man's pocket, but is merely squandered for the maintenance of certain trades, which could not be maintained in a fair

and open competition, and which ought not, therefore, to be maintained at all. The articles which are so raised in price, by the artificial increase in the cost of their production—the articles on which this wasteful tax is levied—are too numerous to admit of, and too well known to require specification. By the abolition of restraints on trade, such commodities would be reduced to their natural price, and this wasteful impost would be saved. All that is wanted is a security for our navy; a security of which, for the present purpose, we would consent to estimate the cost at the extravagant sum of 10,000,000*l.* To levy this sum in the shape of excise or custom duties, on the commodities in question, instead of flinging away the whole amount of the difference between their natural and artificial price, is an obvious suggestion.

### *Exportation of Machinery.*

We know of no question to which the principles of economical science may be applied with more certainty or with less qualification, than that which has been raised of late, with respect to the policy of exporting British machinery. The considerations arising from the state and practice of foreign countries, or domestic interests, which grievously embarrass our attempts at introducing a system of free trade in other cases, in this are both few and unimportant.

In every case of commercial prohibition, whether importation or exportation be its object; in every case, in short, in which the public are compelled to buy a particular commodity at a given place, of a given seller, or of a certain manufacture or growth, their interests and those of the seller are at variance. If they could purchase cheaper goods elsewhere, they pay a tax to the seller to whom they are compelled to resort: if they could not, they would resort to him without compulsion. Nothing more is required to shew, that to *protect* the seller is to tax the public; and what makes it the less tolerable, the tax is taken from the public, not for the purpose of being put into the seller's pocket, but merely to maintain him in the same, if not a worse, condition than he would have stood in, had he never been protected at all. If the seller gained what the public paid, no loss would be incurred on the whole

\* See, amongst other similar estimates, Mr. Monck's speech; *ante*, p. 398.

account: there would be no waste of wealth, but only a change in its distribution—a bad one, certainly; but still preferable to an absolute loss. Here, however, the money is spent, and no one is the better for it: it might as well be thrown into the sea. It may, however,—and we are ready to admit the justice of the argument; it may be urged, that however impolitic towards the object of protection, and unjust to the whole community, restraints on trade might have been in the beginning, the same epithets cannot now be applied to them without an abuse of terms. Trade, it may be said, has long since been diverted by these obstructions, and settled in new channels, which, as they owed their origin to the imposition of these obstacles, would now be dried up by their removal. Here then, undoubtedly, a new consideration arises. The party protected may justly say, that without any gain on his part,—any thing that might be deemed a recompence for future loss, the law has placed him in that condition, that if the public interest be consulted, his must be sacrificed; that although he is nothing the better from the existence of *protecting* laws, he would be much the worse by their repeal; and that—without denying the principle, that the interests of the many are paramount to those of the few—it is still an argument against abolishing restraints on trade, that it can only be done at his expense. We can never shut our eyes to the urgency of these representations: we can never march forward in the path of commercial emancipation, without heeding the many private interests we may trample on in our way. They may be—in some cases, as for instance, in the corn and sugar trades, they are—so numerous, as materially to impede our progress, and to divert our path. But the present is a different case. We know of no relations, either foreign or domestic, which should prevent us from proceeding at once to a repeal of those injudicious restraints imposed by the wisdom of our forefathers on the exportation of machinery.

Objections, however, have been urged against the removal of these impediments, which appear to us to rest upon no other foundation than the alarm of certain classes of manufacturers, who believe that their interests would be compromised by such a course. These objections have been

summed up in the Report of the Committee, which sat during the last session on this subject, under two heads. It is apprehended,

1. That in consequence of the large foreign orders which would probably be sent abroad, the price of tools and machines, if the free exportation were permitted, would be considerably and permanently raised at home:

2. That in a short time after the repeal of the present laws, foreigners would be able to undersell us in cotton goods, in lace made in frames, and in some other branches of manufacture.

A very few words will suffice for the first of these objections. It is one of the simplest and most evident principles of political economy, that the price of every commodity, which does not exist in a state of monopoly, must be determined permanently by the cost of production; and no reason is stated why machinery should be made an exception from this general rule. If the removal of restraints on exportation should cause an increased demand for machinery, as compared with that for other commodities, the wages of machine makers and the price of machinery would, in the first instance, rise; but this rise of wages would immediately cause a larger proportion of the population to apply themselves to the business of machine-making, and thus prices would ultimately be restored to their former level; no longer period being required for this purpose, than the time in which an apprentice can learn the more simple operations of the manufacture. In these views we are borne out by the testimony of most of the makers of machinery who were examined before the committee of the House of Commons; as well as by a fact which has recently occurred within our own knowledge. An increase in the demand for lace within the last two years, produced a considerable rise in the price of lace-frames, as well as in the wages of lace-frame makers, and of workmen employed in constructing machinery of a similar kind. Many persons, both amongst the artisans and the manufacturers, seemed to suppose that this state of things would be permanent; but a very short period has been sufficient to convince them of their error, and to restore both prices and wages to their natural level. Indeed, the only permanent effect of an increase of the demand for any



commodity, must be to reduce rather than to raise its price; because, when a commodity is required in large quantities, its manufacture will admit of a more complete division of labour, and of a more extensive application of machinery. So far, then, are the manufacturers from being justified in their fears, that the free exportation of tools and machines would cause a permanent and considerable rise in their price at home, that its tendency in the long run would be rather to reduce than to raise it.

It is, however, upon the second of these objections that the chief reliance has been placed. It has been assumed, that the wealth and prosperity of this country are mainly owing to our superiority over other nations in manufactures; that this superiority is maintained by the present laws relating to the exportation of machinery, and that, consequently, the abolition of these laws would be highly injurious to the community. This argument contains various fallacies and unwarranted assumptions. We might have objected that it appears from the evidence, both of manufacturers of machinery and of custom-house officers, that the present restrictive laws are in a great degree inoperative, and that, instead of preventing the exportation of machinery, their utmost effect is to increase the expense of exportation: but we will not rely upon this statement; we wish to discuss the question on the broadest principles: we will therefore admit, for the sake of argument, that the present laws are as effectual as the most zealous supporter of the restrictive system could desire; and we will then endeavour to prove, that, even on this supposition, their effect, if any, must be purely prejudicial.

We will consider, in the first instance, the case of two nations trading with each other. We will suppose that a commercial intercourse exists between England and France; English manufactured cottons being exchanged for French silks. It will in this case be obviously the interest of both countries, that each should possess the greatest possible advantages in the manufacture of its own commodity. If by means of an improvement in machinery France can produce a larger quantity of silks than before, she will be willing to give a greater quantity in exchange for the same quantity of English cottons. Any improvement, in fact, in the manu-

facture of either commodity will tend to reduce its price, and will so be beneficial to the consumers in both countries.

But the question has been rendered more complicated by the introduction of a third country, for whose trade the two others are supposed to be competitors. The case has been supposed, in which England supplies America with cotton goods, and in which France, by obtaining English machinery, is enabled to produce cottons at a lower price, and thus to undersell her competitor in the American market. Now it is perfectly true that this would be highly injurious to the English cotton manufacturer, as it would render a considerable part of his capital of little or no value. To the nation at large it would be followed by no such effects. The interest of the public does not consist in the production of any particular commodity or the continuance of any particular trade; but in obtaining all commodities at the least cost, or, in other words, with the least expenditure of labour. There can, also, be no doubt that such a change would be injurious to that part of our labouring population who are employed in the manufacture of cottons, as they must necessarily be thrown out of employment. But if it be contended that this loss of employment would be permanent, and that there would be no other occupation to which they could have recourse; we answer, that there must always exist amongst nations a difference in their relative facility in producing various commodities; and that so long as this difference shall exist there must necessarily be some commodities on which a nation may advantageously employ its labour and capital with a view of changing them for the productions of its neighbours. Restrictive laws, therefore, can never permanently have the effect of increasing the means of employment in any country; but only tend to prevent each nation from applying itself to that employment for which it is best qualified by its local peculiarities and the character of its inhabitants.

But, however true and important may be the principles which we have thus endeavoured to lay down, they are not sufficient to prove the propriety of the immediate and entire abolition of the laws restricting the exportation of machinery. However wrong these laws may be in principle, and however injurious to the community, yet, if the existence of a

great part of our manufactures actually depended upon their being maintained, the Legislature would not be justified in sacrificing at one stroke the property of a large class of persons; and the manufacturers might justly complain, unless their abolition were proceeded in with slow and cautious steps. It will, therefore, be highly important to determine whether the immediate repeal of these laws would be likely to be productive of injurious effects to our existing manufactures. For the solution of this question it will be requisite to consider, in the first place, what were the circumstances which originally caused England to become a manufacturing nation; and secondly, whether these circumstances exist to the same degree at the present moment. As it is only a few centuries since all countries were alike destitute of manufactures, England must manifestly have possessed some particular advantages which led to their institution in this rather than in other nations; and if it can be shown that these advantages, instead of being diminished since that time, are considerably increased, there will surely be no reason to apprehend their decline.

The principal circumstances which appear to have originally led to the institution of manufactures in this country are its insular situation—the extent of its coast and excellence of its harbours—the number of its navigable rivers—and the abundance of its mineral productions, more especially of coal and iron. It cannot be denied that this country still retains the superiority arising from these natural circumstances, and that it has also acquired other advantages which are the result of its own industry. Such, for instance, are the great improvements which have been made in its ports, the formation of extensive docks, and of numerous roads, canals, and other public works, and the diffusion of habits of manufacturing industry amongst the people—habits which are so difficult of introduction amongst an agricultural population. If, then, the possession of these natural advantages were the cause of our becoming, in the first instance, a manufacturing people, it would surely be most absurd to suppose, that, when united with all our acquired advantages, they would not be sufficient, without the aid of restrictive laws, to maintain our manufactures as at present established.

There are, indeed, some persons who

attribute the rise of our manufactures to other causes; who maintain that the British possess a peculiarly inventive genius, and that they would be sacrificing the profits of their ingenuity if they were to permit the exportation of their machinery to other nations. It would be a mere waste of time to attempt the refutation of an objection founded upon the gross assumption, that the human mind is differently constituted on different sides of the Channel. Our inventive genius is not the cause of our manufactures; but we have become an inventive people, because it has been our interest to be manufacturers. Hundreds of Watts and Arkwrights may have lived and died in other countries unnoticed, because their peculiar powers of mind were not called into action; and if an example were required on such a subject, we might mention, that the most eminent inventor now living is a native of France, who has found it profitable to settle in this country, on account of the peculiar facilities which it affords to manufacturers\*.

The objection which we have just noticed has sometimes been put in a different form. It has been said, that the laws against the exportation of machinery are productive of a peculiar advantage to Great Britain, in the same manner as a patent is profitable to an individual. However plausible such an argument may appear at first sight, the slightest examination will be sufficient to expose its fallacy. A patent is advantageous to an individual by giving him an exclusive right to the use of his invention; as it thus enables him to raise, at pleasure, the price of the commodity produced, and, consequently, to obtain more than ordinary profits. But it is obvious that the competition of the twenty millions of inhabitants of this country will operate as effectually in bringing down the profits of the manufacturer to the usual level, as if the manufacture were open to the whole world; and, consequently, that the restrictive laws cannot secure to him any peculiar profit. We may, then, conclude that our manufactures have neither been caused by our peculiar powers of inven-

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\* We allude to Mr. Brunel, the inventor of the block machinery employed in the dock-yard at Portsmouth, and of various other works belonging to the British Government; and who is now employed in constructing a tunnel under the Thames, at Rotherhithe.

tion, nor maintained by our restrictive laws; but that they are the natural result of the circumstances in which we have been placed. And we may be assured that if we are richer and more prosperous than our neighbours, it is not in consequence of any peculiar profit to be derived from manufactures, but because we have been more industrious and economical.

Having thus, as we believe, replied to the two propositions which were put forth in the Report of the Committee, as a summary of the objections to a repeal of the prohibition in question, we shall conclude by a brief notice of certain arguments which have been used, both in and out of Parliament, against the policy of such a repeal.

It has been said, that to permit the exportation of machinery would be to destroy the security of patents, since it would tend greatly to facilitate their infringement by foreigners. This objection assumes, first, that the present restrictive laws are an effectual protection to patents; and, secondly, that no other mode of protecting them can be discovered. Mr. Huskisson, however, states, that "the law of patents in this country nearly resembles that in France and the Netherlands, the countries of which the artisans are most jealous; and that when an artisan takes out a patent in England, he usually provides himself with the same safeguard in those two states\*." It thus appears that, notwithstanding our restrictive laws, the evil has already been felt, and that a remedy has been actually provided.

It would, perhaps, not be right to conclude the present essay without noticing the only objection which has been advanced in the House of Commons against the free exportation of machinery. Mr. Littleton is reported to have expressed his fears that "the repeal of the law would necessarily drive artisans to accompany their machinery to foreign states; as a residence in this country, with the necessities of life at a high price, and exposed to foreign competition, which such a measure would unavoidably increase, would become impossible†." This objection would be more properly directed against the corn laws than against the free exportation of machinery. We will, therefore, refer our readers to the essay on that subject,

where they will find that, however prejudicial the high wages required in this country may be, they do not, as is often supposed, raise the price of our manufactured goods. And as to the danger of the emigration of our artisans, surely no more effectual mode of forcing them abroad could be devised, than to prohibit the exportation of machinery, whilst we permit the emigration of the artisans by whom that machinery is manufactured.

We have thus endeavoured to shew, not only that the proposed repeal of the laws which prohibit the exportation of machinery is consistent with sound principles, or, in other words, beneficial to the public at large, but also that the British manufacturers have no reason to apprehend any injurious consequences to their own peculiar interests. But it may perhaps be said that, although the alteration may do no harm, it has not been shewn that it will be productive of any good, and that consequently, in adopting such a measure, we should be trying a dangerous experiment, without the prospect of any assignable advantage. It does not, however, necessarily follow that, because our manufacturers will sustain no injury, the community will derive no benefit from abolishing these restrictive laws. There are many manufactures, especially those of a coarser kind, which from particular circumstances, are, and always must be, carried on in the country in which the raw material is produced; and it is highly advantageous, as well for the British as the foreign consumer of such commodities, that every facility should be afforded for their production. But even if the proposed measure were not calculated to produce any immediate pecuniary benefit, yet, at a time when Government seems determined to introduce more liberal principles into our commercial system; when such principles are opposed by all the clamours which ignorance and sinister interest can raise; when, above all, the landlords are on the watch to make use of every protection to manufactures, as an argument against any alteration in the Corn Laws; at such a time, it is surely of some importance to shew an uncompromising adherence to sound principles. A consideration of our relations with other countries, will serve to expose still farther the folly of preserving useless restrictions on commerce. Foreign nations have been ac-

\* *Ibid.*, p. 378.

† *Ibid.*, p. 378.

customed to consider our restrictive laws as the cause of our wealth and prosperity; they have regarded them as a cunningly devised scheme, by which we have transferred their money from their pockets to our own; they have consequently endeavoured, as much as possible, to follow our steps; and thus a system of mutual injury has been established. If, then, it be desirable to promote a more extensive commercial intercourse with other nations, we must, in the first place, do all in our power to convince them that we have really abandoned our former errors; and we must prove our sincerity, by repealing all the useless, as well as all the pernicious enactments which continue to disgrace our statute book. They will thus be taught in time to follow our example; and they will learn that every nation is directly interested in the prosperity of its neighbours, and that wealth is the effect, not of restrictive laws, but of industry, economy, and good government.

#### *Corn Laws.*

In consequence of Lord Liverpool's intimation, that a revision of the whole system of corn laws would be proposed by ministers, in the next session of parliament, we shall rather treat this question prospectively, than with a view to the comparatively insignificant debates to which this essay is appended. Those debates, however, were not unimportant, and will not pass without proper notice; but for any importance of their own they would scarcely have required so much discussion as we purpose to enter upon at present.

One thing, however, in these proceedings cannot fail to strike any man, who reads with his eyes open, and whose mind is duly qualified by habits of logical investigation, and that sure inquisitiveness which is never at fault in a maze of words—which cannot have a phrase imposed upon it as a meaning, nor a received opinion as an axiom;—one thing, we say, is obvious in those proceedings, and that is, the confusion and thick darkness which hang over the whole subject of this inquiry, and hide its most important features from the eyes of almost all who spoke upon it, in the two houses of parliament. With the exception of what fell from Lord Liverpool, Mr. Huskisson, and Mr. Whitmore, we have looked in vain through the other speeches for any principles, any extensive political views, any

thing, in fact, beyond a mere perception of the exclusive interest of the individual and his class.

To prove this position, we have only to refer the reader to any speech he may chance to hit upon, in the section *Corn Laws*; but we prefer enumerating a few of the most striking instances of what we speak of, in order that so grave an accusation may not seem to have been hazarded without proof. With this view, we will glance at some of the leading fallacies to be met with in those debates. In this array Lord Lauderdale must stand first, both from his precedency in the discussion, and in his capacity of professed political economist. His Lordship, however, is not ashamed of alleging his *dread of innovation*, for the usual purpose of that fallacy—to carry his own views by getting rid of discussion altogether. “When ‘their lordships,’” he says, “considered ‘that the present system, under various ‘modifications, had endured for more than ‘a century, they could not be too cautious ‘in departing entirely from it. He did ‘not say that it was perfect; but it was ‘one under which the agriculture of this ‘country had long flourished. On this ‘ground he dreaded alteration\*.” On what ground? Because it had endured for a century? Why, if it had endured for a thousand years, like the itch or the principle of population, would that be any reason for neglecting to apply a remedy, if the system be really morbid? His Lordship should have answered the charges alleged against the system, and then we might have judged whether his dread of alteration was a mere interest-begotten panic, or the result of deliberate conviction. As it is, he might as well have told us, that he dreaded an alteration in the Corn Laws, because objections had been urged against them, which he could not answer.

But Lord Darnley concurs in the opinion “that a system of so long standing ‘should not be changed, during this ‘mania for free trade, by the clamour ‘for cheap bread†.” On that ground it has never been contended that it should; but if that topic had been urged for such a purpose, we are not aware why the mania for free trade should make the time either more or less apt for adopting the suggestion. The *anti-rational fallacies* are of all others the most efficacious in two

\* *Anti*, pp. 381, 382. † *Anti*, p. 382.

ways—either in deluding the hearer, or ruining the propounder's reputation, for sense or candour. It is far from our intention, in convicting the noble lord of this sophism, to fix the blame on his intentions: neither for a single blunder, do we mean to impeach his good sense. We are happy to believe them spotless; but we may remark, that a few verdicts against any man on a charge of resorting to those fallacies—which no man has recourse to, unless he has no other at command, would exhaust his character for ingenuity, were he as wise as the wisest of his ancestors.

But we prefer even these fallacies to the bold attempt of Colonel Wood, who would not even look the Bonded Corn bill in the face, “because he deprecated any thing that looked like breaking in upon the “Corn Laws\*.” Here is a legislator calling upon Parliament to dismiss the consideration of a measure, which he says, is a bad measure, because he says, it would lead to another measure, which he also says, is a bad measure. What an opinion Colonel Wood must entertain of the House of Commons!

We must not, however, from too great a partiality to this gentleman's mode of reasoning, omit to add, that it was improved upon by the Earl of Limerick, who not only objected to the Bonded Corn bill, as a covert violation of the Corn Laws; but, because he was indisposed “to coincide with the crude opinions of the professors of that new philosophy of political economy, no two of whom agreed in the doctrines of their sect†.” Those opinions are undoubtedly crude; for we have Lord Limerick's word for it. There is no doubt, also, that their being *new*, is strongly presumptive against their truth; seeing that no useful discoveries have been hit on of late, in this age of steam-engines and gas, and that Corn Laws had before been commended, because they were *old*. Then, again, the doctrines of this new and crude philosophy must undoubtedly be rejected, because a difference of opinion with respect to them, exists amongst the partisans of the philosophy, who strangely enough compose a *sect* without agreeing in a single opinion.

But we are told by Lord Lansdown, that “all practical men are agreed in the necessity of a protecting duty, and

“that he did not know any persons who espoused the doctrine of a perfectly free-trade in corn, except some few who are led away by abstract principles and theories‡.” According to this position, the question is apparently settled; for all those who know any thing about the matter, namely, the practical men, are unanimous in a certain opinion; none object to it, but theoretical men, who, knowing nothing, are not to be listened to. Such is the natural meaning of the observation, and understanding it in that sense, we should only remark, that Lord Lansdown had employed two common words in a singularly uncommon acceptation. Practical and theoretical, thus considered, are equivalent to informed and ignorant. Now they are most likely to be informed in any branch of knowledge, who have made the most extended inquiries, and deduced their opinions respecting it, from the greatest variety of facts. Such men, in the common use of terms, are called theoretical men; as a theory, if it mean any thing, is a view of all that is known concerning a given subject. Hence, in the application of scientific principles to particular ends—as in applying the science of mechanics to the construction of a spinning-jenny, we resort to the theoretical man. When the machine has been constructed by the wisdom of the man of theory, a subordinate agent appears—as in the instance above mentioned, a spinner, who acts with the material supplied by the theorist's intelligence, and is, in fact, little more than a portion of the theorist's machine. This, in common language, is the man of practice; and this is the only known distinction between theoretical and practical men.

Here, however, by referring to facts, we find, that Lord Lansdown has not been inverting the common acceptation of the terms; he has adhered to it accurately enough. But he has stumbled upon an *anti-rational* fallacy. He has been contrasting the spinner's knowledge of mechanics, with Arkwright's and Watt's, and talking of Mr. Webb Hall, as Mr. Huskisson's superior in the principles of political economy; for we assert, without deferring to their opinion, that whatever practical men may think, the opinion of perhaps the greater number of

\* *Ante*, p. 398.† *Ante*, p. 401.‡ *Ante*, p. 384.

well-informed persons—political economists, or not—is in favour “of a perfectly free trade in corn.”

Having restored the terms to their common meaning, we may observe, that when a practical man is referred to for an opinion in the science of which he practices an art, he speaks in the capacity of a theorist; and as his means of acquiring knowledge will have been commonly very limited, his opinion will be often very bad. Thus, Mr. Webb Hall, though probably a good practical farmer, was, for want of opportunities of study, an abominable judge of the policy to be pursued in respect to the corn-trade; whereas Mr. Huskisson may be a very good one, although he never saw an agricultural implement, and might mistake a crop of wheat, as Lord Erskine did, for a field of lavender. Mr. Ricardo once stopped the mouth of some dogmatical man of practice in the House of Commons, by assuring him, that not only was he a theoretical economist, although the gentleman was not aware of it himself—just as the *Bourgeois* in Moliere had been talking prose all his life without knowing it; but that he was one of the most extravagant theorists he had ever met with, even amongst the practical men. No man gives vent to more theories than Lord Lansdown himself, and as they are frequently very good, we were the more surprised at his adopting this singular argument.

We next notice the assertion of the Earl of Roesslyn, “that it was incumbent on the legislature to recollect that numerous contracts had been entered into on the faith of the present law, which it was understood should be permanent\* ;” to which Mr. Curteis adds, “that to propose any alteration which should have the effect of reducing the prices of corn, would be a breach of faith with the farmerst.”

In the first place this assertion is untrue; for in no clause of the Corn Laws is any pledge to be found for their inviolability. But supposing such a provision to exist, what would be its binding effect? The legislature having voluntarily bound themselves to enrich a portion of the community at the expense of the whole—although the object of their existence is to protect the whole against any predominant portion—are, in fact, under

the same obligation to the usurping portion that an agent would be to a third party, to whom he had assigned, without authority, the property of his principal. The act would be null and void, and utterly without effect in both cases. We are far from denying, that the Government may legitimately endow individuals, or minorities of the community, with peculiar privileges, for certain periods of time, as in the case of patents, and trading monopolies; but that is on the principle that such temporary privileges are ultimately beneficial to the public. We admit also, that the Government may contract for a perpetual renunciation of public property, or public rights, for an equivalent; as they lately purchased of the Duke of Atholl his peculiar jurisdiction in the Isle of Man. But in the present case, no such principle can be applied. The plea of contract would not have been set up, if the consideration of the agreement had been forthcoming. When a tradesman demands a debt of his customer, he does not tell him that he ought to be paid because his debtor contracted to pay him, but because he had sold him a horse or a pipe of wine. What have the agricultural interest sold to Government? Neither is this like the case of patent; for the exemption claimed is perpetual:—“A free-trade in corn,” says Lord Redesdale, “can never exist†.” The supporters of this argument can only avoid the force of these objections on one hypothesis,—that the Government is not bound in its transactions by any paramount obligation to the people. We shall not argue the question on that ground. Such a bargain, as regards the contracting parties and the people, is not a contract but a conspiracy.

Such are the strange fallacies into which men of good understanding are so frequently misled by adopting opinions upon trust, or partial inquiry, or what is perhaps still more common, at the imperceptible suggestion of private interests. We might easily swell the list, if our space permitted; but having removed this preliminary rubbish, which lies at the door of every political inquiry, and may be, and is daily applied to subjects the most dissimilar, we will proceed to notice a fallacy more exclusively connected with the subject of this discussion, and which will lead us at once to a consideration of

\* *Ante*, p. 385.

† *Ante*, p. 39

‡ *Ante*, p. 401.

the principles upon which the substantive question hinges. The sophistry we have hitherto exposed has been principally urged with a view of staving off inconvenient discussion. It is not, however, to be supposed that all the bad reasoning lies on that side. On neither side, with a few rare exceptions, is it possible to discover the least glimmering of principle, however narrow; much less an extended view of the nature and bearings of the question, or a delineation of its effects on the different classes of society. We can find little more than vague remarks, unsupported by reasons, although sounding smoothly and popularly, and wearing a conciliatory appearance. Thus we learn from Lord Liverpool "*this truth*, that though the classes connected with the land view the Corn Laws in a different light from those connected with trade, the true interests of all classes on this question are really the same\*." This *truth*, however, is laid down as a postulate—although we hold it to be a theorem, which not only stands in need of, but is, in fact, incapable of proof. The Earl of Lauderdale, and many others, are of opinion, that the manufacturers would be ruined by an impoverishment of the landed interest, from a decline in the price of corn; whereas Mr. Maberly, and others, contend, that the manufacturers will be shortly driven from the foreign market by the competition of the cheap labour of the Continent with the high-priced labour in England—a high price occasioned by the corn-monopoly. Many similar notions were put forth in the course of the debates, which, sophistical or not, cannot be so easily disposed of as those fallacies we have already examined. For the purpose of investigating their truth, as well as of putting the question in what seems to us its true position, it will be necessary to enter at some length into the mode in which the several classes of the community are affected by the Corn Laws.

With a view to this question, we are accustomed accurately enough to divide the community into three classes:—the agriculturists, the merchants and manufacturers, and the labourers. We will treat of the interests of those classes, as far as they are distinct, in order.

In the phrase *agricultural*, or *landed*

interest, the supporters of the Corn Laws include the landlords and farmers; and that portion of the clergy—by far the larger portion—who derive their income from the soil. That the interests of these classes are served by the restrictive system, although in very different degrees, and in consequence of very opposite causes, we may readily admit. We shall, therefore, proceed to examine how, and in what degree, the members of the *agricultural interest* are respectively concerned in perpetuating the existence of the system.

The effect of admitting foreign corn, if any, would be a fall in the price of our own. But a fall in price, from such a cause, must be followed by a reduction in the quantity produced at home. It is not to be supposed that the demand would be materially increased by the fall in price. The consumption of corn is but little affected by such causes: bread, by a corn-fed population (and we are not yet reduced to potatoes), must be had at all events; and whether the loaf cost sixpence or a shilling, there will not be much difference in the total quantity consumed. It is most likely, then, that whatever might be the amount of imported corn, to that extent, or nearly so, would the demand for home-grown be lessened. But in exact proportion to the falling-off in the home supply, would the corn-rent of the landlord be diminished. His money-rent (in other words, his command over the comforts and luxuries of life) would be lessened in a still greater proportion.

The truth of this statement admits of easy demonstration. Corn-rent is the excess of the produce on the superior soils above that on the inferior; or, what is in effect the same thing, the difference between the produce of successive doses of capital, when applied to the soil with successively diminishing returns. If we suppose only two soils in tillage, A and B; A producing 100, and B only 90 quarters; the rent would be 10 quarters, or the difference between the returns to A and B. It is manifest that such must be the fact. The occupier of B would cease to cultivate his farm, unless a return of 90 quarters would replace his outlay, with the addition of the usual profits of stock. But if 90 quarters would satisfy the occupier of B, they would remunerate the occupier of A; and the owner of A

\* *Ante*, p. 381.

would insist on receiving the difference of 10 quarters, for the privilege allowed the occupier of cultivating the land. It is thus that the landlord gains by the cultivation of inferior soils; as the difficulty of raising corn increases, his share of the produce is increased. If, taking the former case, the cultivation of B would give 10 quarters for rent, the cultivation of C, of which we will call the produce 80 quarters, would raise his rent to 20 quarters; the cultivation of D, with a return of only 70 quarters, would swell his share to 30 quarters. Whatever, then, diminishes the demand for domestic produce (and such would be the effect of importation), has a tendency to contract corn-rents, by throwing the less fertile lands out of tillage. Thus if the whole return to A, B, C, and D, were no more than sufficient to supply the market, in the absence of foreign produce; should foreign corn be imported, and, by its greater cheapness, compel the farmers to abandon the cultivation of D, it is plain that corn-rents would fall from 30 to 20 quarters.

Such is the process by which landlords would suffer in the quantity of their share of the produce; we will now shew how their money-rents would stand affected by the same cause.

So long as the supply is equal to the demand—a state to which all necessities have a constant tendency—price, it will be admitted, is governed by the cost of production. What it cost to produce a commodity, will determine the sum for which the producer will sell it. Competition will prevent his getting more; a regard for his own interest will not permit him to take less. But the cost of producing corn, or in other words, the quantity of capital and labour required for its production, increases with the necessity of resorting to inferior soils. To the same outlay of capital and labour, A yields 100 quarters, B only 90 quarters, and C only 80 quarters; that is, the cost of production, and hence the price of corn, if money and other things maintain the same relative value, is successively enhanced by resorting to the inferior kinds of land. Here, then, is a further benefit which the landlord derives from their cultivation. He first gains in the quantity of his produce, and next in its price; first in corn-rent, next in money-rent.

To make this more obvious, suppose that the 100 quarters obtained from A are produced by a given quantity of capital and labour, and the price of corn to be 31. per quarter. If the same capital and labour applied to B, will yield only 90 quarters, the price would rise from 31., to 31. 6s. 8d.\* In the case of C, which yields but 80 quarters, the price would be 31.16s., and if D. were brought into cultivation, it would rise to 41. 2s. 10d. (omitting fractions). As A, B, C, and D, were successively brought into cultivation; or as the corn-rent rose from 10 quarters to 30 quarters, the landlord would successively receive, as money-rent,

The price of 10 qrs. at £3 6 8 or £33 6 8  
 20 qrs. at 3 15 0 or 75 0 0  
 30 qrs at 4 2 10 or 124 5 0

or, corn-rents and money-rents would respectively increase, as follows:

Corn-rent as 10	Money-rent as 10
..... 20	..... 22½
..... 30	..... 37½

If such be the rate of increase, it needs no further remark to demonstrate in what proportion the money-rent of the landlords would be diminished, by a decrease in the price of agricultural produce; a decrease, which is the chief, though not the only benefit of a free trade in foreign corn.

The case of the Church requires no particular discussion. The takers of tithes would suffer in precisely the same manner, as the receivers of rent; by a diminution of their shares in quantity, and a more than equal diminution in price.

But the farmer, as he stands in a totally different relation to the rest of the community; the farmer, who is, in fact, a manufacturer; between whom, and the manufacturer of silk or cotton, there is no other difference than in the names of their respective commodities; the loss of the farmer from a change in the system of corn laws, bears no resemblance whatever to the loss of the landlord and the tithe-taker. The evils of a repeal to him, would arise from two sources; the destruction of a portion of his capital, and the previous bargain with his landlord as to the rent of his farm.

When we speak of the transfer of capital from one employment to another, in consequence of a change in the rate of profits in one of them, we are apt to forget in the brevity of general reasoning, that transfer in such cases, very frequently

\* For 90 : 100 :: 31. : 31. 6s. 8d.



means destruction. A transfer is more peculiarly destructive, when the employment about to be relinquished, is conducted by means of a large portion of fixed capital; a kind of capital frequently inapplicable to any other purpose, and always liable to great deterioration in the process of transfer. A mere list of the different items of which agricultural fixed capital is composed, will shew the great difficulty in removing some, the impossibility of detaching the greater part of it from the soil in which it is invested. Drains, ditches, fences, and manure, are as fixed as the earth itself; a drain of prodigious cost would be rendered entirely valueless, by an abandonment of the particular occupation, and an out-going tenant may as easily move a mountain as a hedge. The agricultural buildings are reduced by such an operation, to the value of their brick and timber; while considerable loss is sustained in the more moveable implements; on the ploughs, carts and waggons, and the whole of the farming stock, from a fall in their market-price, the consequence of a contracted demand for articles of that description. The loss sustained from this source, is of course proportioned to the fall in agricultural prices, occasioned by the influx of cheaper corn. It is a loss which cannot be avoided by the actual generation of farmers, engaged in the production of dear corn; but to omit other topics of consolation, it is mitigated by the reflection, that when suffered, it is suffered once for all; that succeeding farmers would be benefitted by the change in common with the rest of the community; and that even to the present generation there are compensating events attending it, which make it difficult to say within how small a compass, we may not be reasonably permitted to circumscribe their real loss. Herein consists the wide difference between the landlord's and the farmer's interest, in a high price of corn. Landlords and tithe-paid clergymen of every generation, are necessary gainers by a rise in price; the farmers of one generation may be losers by a fall, but they never, even in that generation, can be permanent gainers by a rise.

The loss arising to the farmer from the terms of existing contracts, between himself and his landlord requires notice, only to shew that it has not been overlooked. It is an item, undoubtedly, of great importance, but, like the last, it is

incapable of valuation, from the fortuitous nature of the circumstances upon which its amount depends. The price of corn at the time of leasing; the fall in price from the admission of cheap corn—circumstances of which the value must be calculated for the particular case—will determine the extent of the farmer's loss from this cause.

Such, we believe, is the amount of loss in which the members of the agricultural interest would respectively participate from a repeal of the Corn Laws. With regard to the class of farmers, whose name is unwarrantably blended in a single appellation, with that of the other members of the association, as if they were necessarily sharers in a common interest, we have much remaining to observe. In fact, a strict adherence to method, would have required us to have postponed all mention of the farmer's interest, until we entered into the consideration of those of the capitalist and the labourer. But as we must have prefaced that arrangement by statements, which would have been to the full as much misplaced as what we have already said; it seemed better to fall in thus far with the general mode of speaking on the subject, and to reserve the gist of the argument for its proper place.

From what has been already stated, the utility of further inquiry might well admit of doubt, if we followed the example of the landlords, who, like all other men, are too apt to regard themselves as alone entitled to protection, to look upon high rents as a test of national prosperity, and to hold every thing well so long as they have their cakes and ale. But we must turn to another picture. The owners of land and tithe, have undoubtedly, a common right to the protecting care of Government; but they have only a common right. In the discussion of this question they have a right to have their interests fairly stated; we have endeavoured, without adding or diminishing, to represent them fairly; we shall try to be equally impartial with regard to the rest of the community.

Next in order, then, is the manufacturing and commercial class, including the employers of every kind of capital, with the exception of agricultural stock. The effects of the corn monopoly on this class, under any circumstances, are purely mischievous; in whatever point of view they are regarded, they conduce to the same injurious result, a fall in the rate of profits.

In tracing the causes which lead to this disastrous consequence, we must include in our consideration the interest of a third class—the labourers; for although we cannot agree with Lord Liverpool and those comfortable speculators, in whose eyes the prosperity of the manufacturers and the farmers—for the labourers are not so much as mentioned—form the sides of one graceful arch, of which the landed proprietary is the key-stone, it is certain that in respect of the corn question, the interests of the capitalist and the labourer not only coincide, but are inseparable.

Of all the improvements in economical science, we know of none more important than the principle from which this statement is deduced; and which teaches that the rate of profits is determined by the rate of wages. We take the principle for granted; if we were called upon to demonstrate every principle which is applicable to this subject, our article would not be an essay on the Corn Laws, but a treatise on political economy. To ascertain, therefore, the effects of this monopoly on profits, we must first determine its influence on wages—an inquiry, like some of the preceding ones, somewhat tedious to superficial readers, but for which we make no apology to those who are willing to pay the price for understanding this interesting subject.

Our first proposition is a short one. A restriction on the trade in corn, however it may affect the price of that commodity, will leave the price of other things unaltered. There will be, for instance, the same quantity of money, and the same quantity of cloth and cotton; and these will exchange one for another in the same proportion as before the corn restriction existed. If, therefore, a yard of cloth cost 25s. before that event, it will cost 25s. after it. Hence, also, the labourer who gained 15s. a-week before the passing of a corn law, must continue to work for the same wages, notwithstanding the consequent rise in corn; for there will be the same total amount of capital and the same number of labourers as before. On this supposition, therefore, the Corn Laws operate as a tax on wages: and that, as we shall show hereafter, for the exclusive benefit of the landlords—a tax drawn from the necessities of the poorest, the feeblest, and beyond measure the most numerous class,

for the purpose of increasing the superfluities of that comparatively small body, who are already in possession of enough and more than enough both for use and pleasure, and who wield for their own defence and profit the irresistible arm of power.

But there are limits to a tax on wages. Every thing not strictly essential to the being of the labourer; every thing which constitutes his well-being, may be extorted by the grasp of law: but taxation can go no further. The labourer may be gradually stripped of every thing which can make life desirable or even tolerable to a thinking being; but there is a *modicum* of wages which admits of no further diminution; there is that which has been termed a *natural*, or *necessary rate*; meaning by natural wages, little more than enough to sustain the animal functions in sufficient vigour to endure the requisite amount of daily toil—allowing neither the means nor time for pleasure or convenience, scarcely even for sustenance and sleep. Such, we know, is the situation of the labourers in many parts of Ireland, and in some parts of England. In Dorsetshire, for example, the wages of agricultural labour have for some time past not exceeded 7s. a-week. When the people are at this point, their wages are no longer governed by their numbers. A certain portion of food and clothing they must have. To so many as are necessary for the purpose of employing capital, that portion will be given. If they exceed that number, the superfluous population perishes. Here, then, a rise in the price of corn produces a new effect. There is the same amount of capital to be employed, requiring the same quantity of labour; but the food which maintains the labourer has risen in value, and a greater share of the produce of capital must be allotted to his support;—in fact, wages rise, and they rise at the expense of profits. We may, therefore, describe the possible effects of a corn law, thus. If the wages of labour exceed their necessary rate, the tax first falls on them. The degree in which they are affected depends on the extent of the rise in the price of corn. If it exceed the difference between the actual amount of wages and wages at the necessary rate, the excess falls on the profits of capital. In the first case they, for whom the Corn Laws are enacted, lay violent hands

on the labourer; in the second, they slich from the capitalist. The rise in the price of corn must be paid for by one of the two classes: what is not subtracted from the working people, is taken from the manufacturers and merchants.

How much of this process is produced by the English Corn Laws, it is not very easy to decide; but, in fact, the question is rather one of curiosity than use. The difficulty, such as it is, arises in a great degree from the artificial mode in which wages, and particularly agricultural wages, are paid in this country; a portion only coming directly from the employer and the rest from the parish. The example of Ireland has made it more than probable that without the system of poor laws, wages would sink much lower than they have ever yet sunk in England. The fact is, that the poor laws have fixed with us, what nature—to use the metaphor of the political economists—has fixed in other countries. They have determined, in a great degree, the lowest mark to which wages shall be permitted to subside. If the master's payment increase, the parish allowance is diminished; if the contrary, it is augmented. The necessary rate in England is composed, therefore, of the average sum of wages so called, and the poor's allowance;—not the sum in money, but in that which money will purchase, in the necessaries of life. The sum, in money, may vary; but so long as relief is afforded by the parish, the quantity of necessaries which the money commands will be the same. But the poor rates—those at least which are not paid out of rent—are contributed by the owners of capital. So long, then, as any poor rates are expended on the maintenance of able labourers, the profits of capital are taxed in a corresponding proportion.

In such circumstances, what the capitalist really pays in wages, is, what he nominally pays as such, together with his assessment to the parish rate; and any rise in the price of corn in consequence of the Corn Laws, which increases this disbursement, is in effect a tax on profits for the use of the landed interest.

That profits are really taxed in this country by the operation of the Corn Laws, may be proved from another consideration. It is clear, from the necessity we are under of *cultivating such inferior soils*, as could not be cultivated with-

out loss under a system of free trade, but which it is the very object of the Corn Laws to keep in tillage. The mode in which the return to capital is successively diminished by its employment on successively inferior soils, has been noticed in our former remarks on the effects of foreign importation on the landlord's rent. It is plain that the rate of profit on agricultural stock cannot long continue lower than that on capital in general. No such prodigy can permanently exist as two rates of profit in the same country, and as the demand for agricultural produce leaves no choice as to the tillage of the poorer soils, the general rate of profit must fall to the level of the agricultural, for the agricultural cannot rise.—Now, mark the intimate connexion between the interests of the labourer and the capitalist. The fall of profits impedes and may ultimately put a stop to the accumulation of wealth—in other words, to the means of employing labour; but such is the natural inequality between the increase of capital and the growth of population, that the latter still advances, when the augmentation of the former is suspended; and as every step which widens the disparity between them is a step, on the part of the working classes, towards a state of penury and want, it is no trivial charge against the Corn Laws, in this view of the question, that they not only cripple the resources of the manufacturing interest, but tend to impoverish and degrade the labourer. That, however, is only on the supposition—and we do not wish to conceal it—that wages are above their necessary rate. But if not, the labourer is not uninjured; for, although his wages cannot sink, the permanent rise in the price of corn reduces him to despair; it destroys even the chance of amelioration from a rapid increase of capital—be that chance how small soever, and renders his condition, already too hard for endurance, altogether hopeless.

We may as well conclude in this place what remains to be said, with regard to the condition of the labourer, as affected by the Corn Laws. The foregoing conclusions might be granted, and still it might possibly be alleged, that a large race of agricultural labourers has grown up under the existing system, whose services would be rendered useless by a change at the present moment, and who would therefore be turned adrift on the

world, not only with a new employment to seek, but what is even harder, to learn. To them, it might be said, the Corn Laws are beneficial, in the same sense as they are advantageous to the farmers: that they confer, at least, the negative advantage of securing them in a less productive occupation, whilst a free system, however ultimately beneficial, would, in the interim, expose them to the peril of a total cessation of employment. This objection, however, has less real than apparent cogency. A transfer of capital, as it is called, is, in most cases, a serious evil, because the great bulk of the capital is not susceptible of transfer without suffering a destructive diminution. But this is not the case with labour; that may be transferred uninjured. The only difficulty is the intermediate support of the labourer whilst in the act of passing from his old to his new employment. We do not mean to say, that the demand in other quarters would be so instant as not to leave time for some depression in the wages of agricultural labourers; but considering how rarely the actual wages of that class can elevate them much above the parish fare, we certainly see no reason to believe that their scanty resources would suffer any serious diminution, which would not be tolerably supplied by a little greater than ordinary distribution of parochial relief. The ground we are treading on verges on the extreme of hypothesis; and we are far from offering these remarks with the same confidence that we repose in others. But we cannot help thinking, that the route we have pursued is the right one, although the conclusions it might ultimately lead to, had we sufficient data to proceed upon, might not square exactly with our expectations.

A more conclusive argument might be drawn, with respect to the condition of the labourers, from their actual condition in this and most European countries; let the objection be modified—let it not be averred that they would suffer—let it only be said that they would not gain by a free-trade in corn, and we admit it. We admit it with respect to those, and we grieve to think that they form a large proportion of the whole of the working classes, whose wages are at such a rate as to endure no farther diminution. Consistently with our former reasoning, we are bound to concede this point. If the free importation of foreign corn should

in fact do no more than emancipate the capitalist from a tax on profits; if the number of the people, as compared with the means of employing them, should still be found so great as to allow of no increase in their wages—it is plain that the labouring classes would receive no benefit from the change. But even should the cheapness of corn enhance their real wages; if that portion of the seven shillings which the Dorsetshire labourer now allots to the purchase of food, should suffice for more food than he would consume, we should see but little gain in that circumstance. The tendency in that portion of the people to overstock the labour market is so decided, that wages would not fail to be reduced in a few years to the same level of want as before. We cannot close our eyes on this fact. Not to speak of long personal experience, which would be reckoned, as it ought to be, of little moment—the universal accord of all who are acquainted with the business of an English parish, backed by the arithmetical authority of parish-registers and statistical tables, leave no doubt of this melancholy fact. This is not the place for considering by what means the wages of the lower classes of labourers can be increased; although that is a subject of all others the most important:—we have entered into this discussion to justify our former concession, that a repeal in the Corn Laws would not be followed, at least for any permanence, by a rise in real wages.

We cannot, therefore, agree with those who hold up the Corn Laws to the common people as the great cause of their distress. This, we think, is an injurious delusion. There is only one cause worth speaking of, which perpetuates in this country the degradation of the labouring class. That cause, it can never be repeated too frequently, is the excess in the number of the people. To ascribe their poverty to any other, is only to mislead them. If corn were double its present price, the people, by limiting their numbers, might have as much of it as they wished; if it were twice as cheap, at their ordinary rate of increase, they would be shortly as poor as ever.

But because we think there is little to hope, for the benefit of this portion of the lower orders, from a repeal of the Corn Laws, let us not be understood to assert that they suffer no evil from their existence. The

evil they endure from the fluctuation in the price of corn, which is incidental to the restrictive system, is scarcely less than that inflicted on the capitalists and the farmers. Of this we shall speak further bye and bye; for the present we must return to the manufacturers and merchants.

The supporters of the Corn Laws tell us that whatever may be the labourer's interest, the farmers and the manufacturers must stand or fall together:—that is their phrase: and they ask triumphantly, should the agriculturists cease to consume, as they must do, unless protected in their monopoly, will the manufacturers continue to produce?

In answering this question, we must distinguish between two sets of manufacturers. There are some, comparatively few in number, and employing a small amount of capital, who manufacture exclusively for the use of the agricultural class; such as wheel-wrights, blacksmiths, and carpenters. They, we admit, must stand and fall with the farmers. They may, in fact, be conveniently considered as members of the agricultural interest. The same remark may be extended, though not in the same degree, to those provincial traders, the grocer, the linen-draper, and the tailor, who supply the agricultural classes with the produce of the manufacturer. These, however, employ little capital which could suffer from a change in the mode of its employment. The change to them, would be little more than a change of customers. But with regard to the mass of manufacturers, they would never stand more upright than when the agriculturists should, in their own phrase, be fallen. For what is it that they exchange their commodities with the English farmers? For corn. But corn, and that in the same quantity, must be had by the British consumers, whether grown at home or abroad; and when the English farmers "fall," it must be had from the foreign farmers, who will not be more backward to take our manufactures than the English; and what is more, will give us twice as much corn in return.

But in fact, it is not only the manufacturer, in the common use of the term, who is interested in a free trade in corn; the farmer himself is no less so. Whatever tends to depress the profits of stock in general, must have precisely the same effect on the productiveness of agricultural stock. The capital of the farmer will suf-

fer from such a cause, no less than that of every body else. More capital indeed may and must be employed on the land, which, no doubt, is advantageous, to the landlord; but so long as it must be employed with a smaller profit, we are at a loss to understand how it can benefit the farmer. To the capitalist—and the farmer is as much a capitalist as the manufacturer or the merchant, the value of the field in which his stock is invested, is not determined by its extent, but by its productiveness. To us, and we do not suppose that we are peculiar in our preference of high profits, it seems unquestionable, that a farmer would do much better if he could extricate his capital from the soil, to employ it in weaving cotton or bombazeen, at 15 or 20 per cent. profit, than in growing corn at 10 or 12; just as, if we were citizens of the United States, we should say, that the manufacturer there would gain by growing corn at 50, instead of weaving cloth at 25 per cent., and endeavouring to compete with England—not in that commodity, in which the natural advantage of his country must give him an easy superiority, but in that in which our natural and acquired facilities must afford us an incontestible triumph.

We have now concluded the analysis of these separate operation of the Corn Laws on the different classes of society. They are undoubtedly beneficial to the owners of the soil and the tithe proprietors, whose incomes are bettered by them in a two-fold ratio; by an increase first in their share of the produce, and next in its value: they are advantageous to the present race of farmers, in as much only as they prevent the loss on agricultural capital, which the fall of prices, from a free trade in corn, would not fail to produce; and for a similar reason, though in a far less degree, they may be considered as beneficial to the class of agricultural mechanics and country shopkeepers. To the rest of the manufacturing and commercial classes, they are purely mischievous, by depressing the rate of profit,—an evil which equally affects the farmer, the agricultural mechanic, and the country trader, as employers of capital. And, lastly, they are injurious to the labouring people, if not by lessening their actual wages, at least by checking the increase of the fund which supplies them with employment, and thereby permanently degrading their moral and physical condition.

But the paramount evil of the Corn Laws is not confined to this or that order of men;—it affects all orders equally; or if it affect one class more than another, the chief sufferers, strange as it may seem, are among the members of the landed interest itself. The worst evil of these laws; that which spreads the most rapid and extensive desolation, from time to time, over every class, first breaking up the farmer, and uprooting the landlord from his fixed station in society, then harassing the manufacturer, and unsettling the condition of the labourer; an evil, glaring and oppressive as it is, which is overlooked by some, denied by others, and palliated by all who advocate a restraint on the importation of foreign corn—so perverse is the mental obliquity which men acquire by the exclusive contemplation of their own, unconnected with other people's interests;—the worst mischief incurred by the system of prohibition is the perpetual fluctuation of price, the inevitable effect, and were its infliction confined to the guilty, the just punishment of *monopoly*. When the law of 1815 was enacted, which provided that foreign wheat should not be permitted to enter the British markets till the price of the home-grown should have risen to 80s. a quarter, it was confidently supposed by the chief supporters of the law that it would have the effect of keeping prices at that level. A variation in price from other causes, it never entered into their hearts to conceive. They never adverted to the effects of a fluctuating supply; and yet it is obtrusively evident, that a permanent rate of price can only be sustained by a constant rate of supply and demand. The state, too, in which it is most difficult to preserve this equality, is precisely one of *monopoly*. In ordinary cases, if the home supply fall short, a sudden rise of price is prevented by timely importation; if the supply be excessive, an injurious depression is avoided by exporting the superfluity. Importation may still take place, if the deficiency raise prices to a certain point; but exportation, in the present situation of this country, may be pronounced impossible. British corn is grown at an expense far exceeding the cost of production abroad; whence to enable the British farmer to export, a fall must take place in prices to a ruinous extent. They must not only fall from their artificial height, to the natural

prices of the continent; they must fall so much below them, as to cover the charges of exportation. Suppose corn in England to be at twice the average continental prices—a supposition by no means impossible in the event of a succession of defective harvests: if, for instance, it be 70s. a quarter, whilst foreign corn is at 35s. and a glut in the home-market should occur from an abundant crop; it is plain, if the cost of export be taken at 5s., that English corn must be sold for 30s. a quarter, before relief can be obtained by exportation. But years of excessive fertility must occasionally recur. They must always be followed by a destructive depression of prices, and fall as heavily on the landed interest, as defective harvests will fall on the other classes.

It is unnecessary to recur to examples. The experience of late years has furnished us with too many of the alternate distresses of the agricultural and manufacturing interests. If, therefore, it be desirable to perpetuate a high price of corn, it must be equally desirable to find means of limiting the home-supply: The Dutch, in certain years of abundance, burned a portion of the spices which were grown in their eastern settlements; and for their own interests they acted wisely. Will the English landlords emulate that example? If their corn laws must exist, we have no hesitation in asserting, that the destruction of superfluous produce would be a beneficial expedient; it would at any rate save a portion of the community; and contract the mischief of monopoly within a narrower sphere.

Every body knows, that the fluctuation we have described, is not only “true in theory,” but unhappily to the full as “true in fact.” We may be spared the labour of repeating the hackneyed tale of “agricultural distress,” and it is unnecessary to do more than call to mind the worse distresses of the labouring people, and a large portion of the capitalists in the years immediately preceding. These are topics of which it is enough to suggest the outline; the sketch may be filled up, and the colouring applied at leisure.

As little need be said on another source of apprehension, which a continuance of the Corn Laws might hereafter change into reality—the danger, not of over-production, but of famine; so opposite are the evils engendered by this monstrous system. If we ceased to purchase foreign corn—

and such is the avowed desire of some, and the secret wish of many members of the landed interest, the growers in the exporting countries must proportionally contract their supplies. They would only grow for the foreign market; their crops would be averaged by the measure of foreign demand, and in the first emergency, in the first scanty harvest that might ensue in England, we should find their granaries half-filled, their stocks already engaged to their constant customers, from whom we should be driven to re-purchase them at a price which would be set by famine. This subject was ably handled by Mr. Whitmore, in his speech during the last session of Parliament; but before we dismiss it, we will take the opportunity it affords of dispatching a foolish, but prevalent notion concerning the necessity of preserving this country from a dependence on foreign, perhaps hostile nations, for its supply of corn. Depend on them we must. Is dependence an evil? We will not stop to say, nay. We will only say, that the Corn Laws afford no means of deliverance; if we do not choose to import, we must choose to starve.

We may observe, that these general objections to the corn-law system, prove no more than the utility, we may say, the necessity of abolishing it. To shew that it is hurtful to the landlord, to the farmer, to the capitalist, to the labourer, by placing their several incomes in a state of perpetual uncertainty; to shew that it injures the whole community, as consumers, by raising the price of bread and other necessities; to shew all this, and much more of the same general nature, only leads to the unpractical conclusion, that in those respects, the system is bad, and should, if possible, be set aside. But it teaches nothing as to the means, or the mode of getting rid of it. For that purpose, we must consult the peculiar interests on either side; we must endeavour to conciliate them, and where that is impossible, we must strike the balance, and relieve the majority with the least possible detriment to those, whose advantage is lighter in the scale. With this view we entered into that analysis, which, we fear, from our want of space, and the intricacy of the subject itself, is not quite so amusing as a speech on the Catholic question, although the topic at least is more important; and for the same purpose we

refer the reader, before commencing the remainder of this essay, to the summary which concluded that analysis.

Having there, as we conceive, depicted the real state of interests—we speak only of pecuniary interests—with regard to the Corn Laws, we come to the question, What is the nearest point of union to which they can be brought by legislative interference? If Lord Liverpool's proposition concerning the identity of interests be unhappily false in fact, it is not the less desirable to make it true, as far as law can make it so.

If we inquire into the *extent* of the conflicting interests, there is no comparison in point of number between those who derive benefit from cheap corn, and those who profit by its dearth; the parties are the landed interest against the whole community. But if we look to the *intensity* of the interests, those of the minority are the more prominent.

A sudden repeal of the Corn Laws would inflict a certain and ruinous degree of suffering on every individual included in the landed body; on the other hand, the personal advantage of the several members of the community, though far from problematical in the end, would be neither sudden, nor extensive. These circumstances plainly point at the nature of the remedy to be desired. That which would go farthest to meet the interests of both parties, must be one which would reduce the loss of the agriculturists to the least amount, by the slowness of its operation, whilst it would in due time secure to the community those advantages of which they cannot be justly debarred by a well-intentioned government.

A duty on importation, regulated at first by the present cost of producing British grain, and lessening year by year, till the average price in our own should exceed that in foreign markets by no more than would compensate the owners of land for the tithe and other agricultural taxes—seems likely to effect this object.

We shall not here discuss the merits of these several plans, by which the principle we have just arrived at may be put in force; our object has chiefly been to set forth an impartial statement of the mode in which certain portions of the community are affected by the existence of the Corn Laws, and how they would gain or lose by their repeal. The great difficulty is to procure admission for the principle, which results,

as it seems to us, from the foregoing statement.

For the agricultural interest, farmers as well as landlords, it reduces the inconvenience which they anticipate from a change in the Corn Laws, to the smallest possible amount; by giving *time*—the only remedy which, under their circumstances, it is in the power of the legislature to afford. But let them not suppose for a moment, that this remedy, however inadequate to save them harmless in the change, is an alternative; and, as they are apt to suppose, the worst alternative for their interests:—there is, in fact, no other remedy. A repeal of the present system would compel the farmer to transfer his capital, and the landlord to reduce his rents. True; but a continuance of it would, at intervals, do no less. Their option is not between high and low prices: low prices they must have; and their choice is restricted to a moderate price with a steady market, or that ruinous depression which results from the occasional gluts inseparable from a restrictive system. This is an alternative, which seems to exclude hesitation. The choice is between one act of retrenchment and a series of periodic bankruptcies. In the first case, the transition from monopoly prices to the level of a free trade, may be greatly facilitated by time. We know this opinion has been disputed. It has been said that the apprehension of what might happen on an opening of the ports, would probably be attended by a depression in price, even greater than that which would result from an actual importation. That effect might undoubtedly follow, if the farmer were not allowed *sufficient* time to make the necessary calculations, and to adjust his capital, according to the probable average of future importation prices. It will scarcely be denied, that the time for a total repeal *might* be so deferred, as to prevent even the slightest effect upon the actual price of corn. The business is not so urgent, at least, if our speculations be correct—as to preclude the possibility of giving time to any extent that might be deemed advisable. If it were possible to approach so gradually to a system of perfect freedom, that the annual loss to the farmer, in consequence of the transfer of capital, would be balanced by his annual gain, from the concomitant rise in the profits on his remaining stock; that would be the course

which a wise government would elect to follow. Such a plan, it is true, is one of mere ideal perfection. But we may approximate to what we cannot wholly accomplish. The importation of foreign corn may be regulated with a view to that effect. Prices may be suffered to decline without too rapid a precipitancy; advantage may be taken of any accident, to break the fall—the occurrence of a glut, for instance, from over-production, might be laid hold of for the purpose of accelerating the consummation, and we might thus, perhaps, accomplish the business without any very serious loss to any party.

But if the agricultural interests are entitled to *time*, in the process of repealing the Corn Laws, it is no less expedient in the case of a free trade in corn, to establish a *permanent* counterpoise against the pressure of certain taxes on the soil, such as tithes, a portion of the poor rates, and perhaps one or two other taxes. It seems too obvious to be remarked, that commodities in importing countries, will be sold at that price which remunerates, not the home, but the foreign producer. If a Polish farmer could sell his wheat in Mark Lane at 40 shillings a quarter, and no restraint were imposed on importation, the English farmer must be content to sell his wheat of the same quality, at the same price. If this occurred in the *natural* course of things, 40 shillings per quarter would be the lowest rate at which such wheat could possibly be supplied; and as we should then derive from the capital employed in agriculture the greatest sum of production, which it would be capable of yielding, no cause of complaint would exist, either on the part of the consumers or the landlords—the only classes whose interests are permanently affected by any legislative regulation about the corn-trade. But English corn would, in fact, be brought into the market under very unfavourable circumstances: under the pressure of taxes which probably amount together to one-tenth of its whole value. To compete with the Polish exporter, the English farmer must restrict himself to the cultivation of such soils as would enable him to pay tithes and the rest of the agricultural taxes, and still sell his wheat at 40s. per quarter. This would, in effect, transfer the burden of the tithe and agricultural taxes from the English consumer to the landlord; for rent, as we have seen, increases and declines in proportion to the



increase or contraction of cultivation. Hence, therefore, the necessity of a protecting duty to the amount proposed.

Against an arrangement holding out such advantages to the agricultural classes, the rest of the community would have no cause to complain; an assertion which to those, who have read the preceding pages of this essay, will need no evidence. There is, however, one argument, we think a fallacious one, although frequently adduced by the adversaries of the Corn Laws in the House of Commons, which deserves some notice in this place. It is, that the existence of the Corn Laws is, or ought to be, a bar to the removal of restriction on other branches of our foreign commerce.

"How is it possible," says Mr. Maberly, "that our manufacturers should long be able to contend with the manufacturers supplied by the cheaper labour of the continent, while the high duties on imported corn are kept at their present standard? Ministers should have paused before they ventured upon adopting their new regulations in respect of our trade and manufactures. They should have considered our Corn Laws in the first place, before they took any other steps in regard to our commerce\*."

Now it may be true that the most desirable point, from which a liberal system of trade could have started, would have been a repeal of the Corn Laws; but it is not true, that relaxations in other branches of our old commercial system are unsafe, during the continuance of these laws; it is not necessarily true, that because labour is dear in England as compared with other countries in Europe, that those countries should be able to compete with us in manufactures. This argument is built on a wrong notion of what determines a country to export. Exportation takes place from England rather than France, not because wages are lower (for, in fact, they are higher) but because the whole cost of the exported commodities in England is less than their whole cost in France. Of the cost of production, wages are only a part; by those who insist upon the argument we are disputing, they seem to be considered as the whole. Suppose that in the manufacture of a given article labour must be expended which cost 90*l.* in England, and 85*l.* in France; does it follow that the United States will purchase that article in France? By no means; for if the rate of profit in France should be 15*l.* per cent., while it is

only 9 per cent. in England, the English manufacturer will still be able to undersell his French competitor; he will be able to sell the article in question for 99*l.*, whilst the Frenchman cannot profitably export it for less than 100*l.* So long, in fact, as the English manufacturer can afford to sell his commodities at a lower rate than the French, so long will he command the foreign market: for the same reason, also, and under the same circumstances, he will retain his superiority in the home market.

So far, indeed, is Mr. Maberly's notion concerning the effect of the rate of wages on the power of a country to export manufactured goods from being correct, that it is directly the reverse. It is true that the high rate of wages in England is the cause of a low rate of profit; and in that respect, undoubtedly, high wages are injurious to the manufacturer: in that respect, also, in common with other capitalists, the manufacturer may justly complain of the Corn Laws. But low profits, so far from disabling him for competing with the foreign manufacturer, have precisely the opposite effect. It is by the *lowness* of his profits—in other words by the high wages of English labour—that our manufacturers have been able to undersell their foreign competitors in every market in the world.

It is well known that the manufactures in which this country principally excels, are chiefly the produce of machinery, or, to speak in the language of the political economists, of fixed capital. But the value of the produce of fixed capital is mainly composed of profits. Not to embarrass the question, we will suppose it to consist of profits only. Suppose, then, that a French and English manufacturer are each in possession of a machine of the value of 1000*l.* If the rate of profit in France be 15 per cent., the cost, or, in other words, the price of the commodity produced by the French machine, will be 150*l.* If the rate of profit in England be only 9 per cent., the price of the English article will be 90*l.* But what causes the comparative cheapness of the English article? The comparative *lowness* of profits. The profits of fixed capital, however, must correspond with the general rate; and the regulator of the general rate of profits is the cost of labour. Profits are high when wages are low; and low, when wages are high. But the

English commodity, as we have seen, is cheaper than the French, because profits in England, as compared with profits in France, are low; in other words, because wages in England are high.

If this proposition be true—and in our eyes it bears the aspect of mathematical precision—the existence of the Corn Laws afford no argument in favour of perpetuating the restraints on other branches of trade and commerce.

Having pursued the subject thus far, we are now more able to judge of the futility of the objection to a further change in the Corn Laws, which is founded on the unfitness of the time—an objection repeated so frequently in the course of last year's debates, as to render particular citations needless.

If we were inclined to play the part of advocates, we might observe that the gentlemen who oppose alteration now, on account of the flourishing condition of agriculture, were the same who demanded more complete prohibitions in the late periods of distress. Their argument, therefore, goes the length of demanding a perpetual prohibition. We should, however, be sorry to resort to this dishonest argument *ad hominem*; we will leave Mr. Gooch to justify his personal inconsistency, and debate the question on its merits. A change, then, must be commenced, either in a period of distress or in one of prosperity. If in a period of distress, we may regard the consequences as affecting two sets of agriculturists:—those who are driven from their occupations, and those whose losses fall something short of that acme of distress, and who are still able to carry on their business. A repeal of the Corn Laws at such a time—and the depression may be so great that prices would sink no lower even from their total repeal—would confirm the loss of both parties; a continuance of those laws, would, in time, enable the occupiers who had not been driven from their trade, to retrieve their condition in a great degree; but the rest would be ruined past redemption.

What is said of the occupiers, is also true of the owners of land. Now it seems past questioning, to our minds, that a juncture like that we have described, affords the best possible opportunity for a repeal. In the first place, the repeal might be complete; in the next, the remediable mischief would be less than at

any other period. To the ruined occupiers, the repeal would be simply indifferent; the loss would be confined to those who might still be able to retain their occupations, and who would be deprived of the opportunity of retrieving their ruined fortunes. But is the public advantage an insufficient set-off against such an interest?—an interest, too, conferring no permanent advantage, but which would only restore the farmer to the old state of temporary prosperity and periodical loss? To us, we confess, this appears the “acceptable time;” although we are far from averse to begin a system of repeal at a period of prosperity. In that case we have only to observe that the sooner it is begun the better; for the higher the rise in agricultural prices, the more impracticable will such a system become; the mischief will attain more inveteracy, and the evils which follow in its train will assume their most incurable type.

Entertaining these opinions, we look with anxious concern to the ensuing deliberations in parliament. With a ministry both zealous and instructed, and a large portion of the respectable classes well inclined to a modification of the Corn Laws, it might be thought that there would be but little room for apprehension. But neither of these parties are arbiters in the case. The power is in the hands of that party whose advantage is unfortunately so opposed to that of the community—although, if not considered in a bare pecuniary light, it is less opposed than might at first appear—and, however we may rely on the enlightened integrity of a portion of that body, we find little to hope for in the mass.

We judge from the principles of human nature; from their habitual conduct; from their confessions; from their threats. “The men of landed property,” says Lord Enniskillen, “ought to stand by one another. If they do not, the monied interest will overwhelm them\* :” as if this were a civil war between the partizans of high profits and high rents, and the only question for the legislature, were to secure a victory for the landed interest! This sentiment was repeatedly expressed in many speeches, most of which, we are happy to observe, were not distinguished, either for their intrinsic merit, or the reputation of their authors.

\* *Ibid.*, p. 401.

But this monstrous ground has been taken by one individual of grave character and eminent legal attainments, whose opinions it is impossible to slight and absurd to ridicule. We speak of the late Lord Chancellor of Ireland, Lord Redesdale.

"The constitution of this country," he says, "is founded upon, and can never be safely separated from, the landed interest. To talk, therefore, of a free trade in corn, is at once absurd and dangerous. It is impossible that such a free trade can ever exist consistently with the safety and prosperity of the kingdom. . . . Any measure would be objectionable which might have the effect of placing the corn-trade of England upon the same footing as that of any foreign country. To do this would be to adopt a false and dangerous policy, and one which is opposed to the soundest maxims of national economy. The land is the foundation of all our wealth, and from it every other description of advantage flows. This has been the idea entertained by all our old writers on political economy, and experience has proved that they were not mistaken."

What is chiefly to be remarked in this extract, with regard to the man, is the strange contrast it presents with his judgments in the Irish Court of Chancery—the contrast between strength and weakness, knowledge and ignorance, and each equally profound—the miracle of hearing from the same lips acute and lucid argument, and the babbling anilities which the reader has just perused. What is chiefly to be noticed in the opinions—and with them we have most concern—is the new light which Lord Redesdale has thrown on the theory of the British Constitution. The basis of the government he has found in the landed aristocracy: the fact has been long suspected, but it required the oak and triple brass round the breast of this noble lawyer to avow the system in terms, and stamp it with his public sanction. This busy meddling period is an ill time for such candid disclosures. Not to mention the mass of temporary taxation incurred, in defence of "the mixed government," we have now a second permanent prop in the shape of another corn-tax. The people have long murmured against the title; they are consoled with the prospect of a perpetual corn-law. Such is the account:

	<i>Per Ann.</i>
Tithe (say) . . . . .	£ 5,000,000
Corn laws (say) . . . . .	15,000,000
Total yearly charge for the benefits of a constitu- tional clergy and landed gentry . . . . .	£20,000,000

\* *Ante*, p. 401.

This will never bear investigation. Men will suffer any finite evils, rather than incur the hazard or inflict the misery of shaking them at once from their shoulders; but perpetuity is an element in pain, which makes even "the wise man mad." We harbour no inveteracy against the landed gentry; we have no hostile feelings against any class or party: we wish to see all prosper without sacrificing any single interest. Any relief which may be afforded to the landlords, consistently with the general good—and we have shewn how great the measure of that relief may be—we are heartily willing to concede. But when they attempt to justify the peculiar privileges, which their power has enabled them to usurp, we cannot refrain from advising them—and it is an act not of enmity but friendship—to be wise in time.

### *Country Banks.*

A PETITION, presented by Mr. Hume, on behalf of a Mr. Jones, complaining of the misconduct of a country banker in refusing to cash his five pound notes, produced a short discussion on the currency. This debate is worthy of notice, both as indicating the state of the political economy of parliament, and in consequence of an intimation from several members that they intended to move the subject in the ensuing session.

To these members we offer the following concise reflections.

We may perhaps be pardoned for observing that, when a thing is to be bought, it cannot be bought too cheap. If, for instance, of two media of circulation, gold and paper (for we will keep the silver out of view), the prime cost of one be twenty million, and of the other but a few thousand pounds, no man, who can "count ten upon his fingers," will as far as cost is concerned, elect the gold in preference to the paper. Now, if the manufacture of a paper note be estimated at so high a price as 3d. a paper currency might still be had for one-eightieth of the cost of a gold one. That being the case, we must hear something much more decisive than any hon. gentleman has been able to borrow from Mr. Cobbett, before we can abandon our maxim, in favour of a metallic currency.

Suppose, for the sake of argument, the circulation of the country to be

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£20,000,000\*, what can be plainer than that the same amount of paper notes, if gold remain of the same value and the notes of the same quantity, will serve equally well for almost all, and better for many purposes than the gold? If with a paper sovereign or a gold one, I can indifferently purchase 20 shillings, or a commodity of 20 shillings' worth, how am I concerned in the choice of gold or paper, otherwise than in the greater convenience of lightness, pliability, and the like, which the one may possess above the other? That the paper may be made to purchase as much as the gold sovereign, is demonstrable. To communicate that faculty to paper money, nothing more is necessary to be done, than to make it convertible into gold on demand.

When a merchant or a country gentleman pays a debt with his note of hand, why does the creditor receive the note in lieu of its worth in money? For the obvious reason, that money or money's worth may be had for it at the stipulated notice. For the same reason would that merchant or country gentleman rest content with a note of the Bank of England.

If the merchant, however, or the country gentleman, should put forth in payment of their debts more notes than their funds would answer; or if the Bank of England should commit the same imprudence—the merchant, the squire, and the Bank, would find their notes depreciated in value, till at a certain point they would cease to circulate at all. The merchant and the squire must take the benefit of the Insolvent Debtor's Act, and the Bank of a parliamentary indemnity.

Thus we find that individuals, with the exception of a few, who are either knavish or imbecile, are deterred from over-issuing their bills by the dread of a call for payment. Within the extent to which their funds are adequate, there is nothing but advantage from the practice of issuing bills. That the same check would regulate the Bank issues would be a matter of little doubt, if the Govern-

ment were so responsible to the people, that the Bank would never calculate on a suspension of their liability to pay in cash. The interest of a body of men is not so apt to be misconceived as an individual's. The conduct of an individual is regulated by his own wit or folly; that of a corporation by the most experienced heads amongst them. On this account it is almost certain that a body like the Bank, if entirely unprotected by the Government, could never, either wilfully, or ignorantly, put forth their promises to pay beyond their means of redeeming them.

If, however, we should grant it to be possible, the remedy is both simple and certain. Suppose, to avoid large numbers, that the currency is 1,000,000 of notes circulating with, and of course exchanging for, the same number of sovereigns. If the paper issues be increased by 100,000, the relative values of gold and paper are altered. The note remaining at 20, the sovereign would rise to 22 silver shillings. In this case nothing would prevent a demand for payment of the notes till they were reduced to their former quantity; as on every note so cashed the holder would gain, and the issuers would lose 2s., the difference between gold and paper.

The interest of the issuers would equally protect a paper currency from a disturbance of an opposite kind; an inconvenient narrowing of the circulation. Nothing but a caprice, which in the most ignorant individual would be set down as a loss of reason, and which a body of individuals may be presumed incapable of entertaining, could induce the issuers so far to restrict their paper. With the quantity of paper, which their credit enables them to send abroad, their profits are increased or lessened. The temptation to which they are exposed, is, in fact, of an opposite kind; their propensity is always to over-issue, and not to stint the supply of notes. But suppose them so capricious, as of two rates of profit to elect the least, the public would suffer little from the consequent rise in the value of the circulating medium. If, instead of 1,000,000, they only issued 900,000 notes, and the value of the note and sovereign should thereupon rise from 20s. to 11. 1s. 0½d. (nearly), the bullion-merchants, who would infallibly retain the ordinary propensity for high profits,

\* This is the estimate of Messrs. Whitmore (*Appendix, Bullion Report*, p. 121, 8vo. ed.) and Harman (*Commons' Report*, 1819, *Minutes of Evidence*, p. 40), of the amount of gold coins in circulation during the three years previous to 1797;—an estimate generally thought to be under-rated.

would carry their gold to the mint for the sake of the 1s. 0½d. which they would gain on every sovereign they coined, till they had sent 100,000 into circulation, and brought down the value of the currency to its original mark, by restoring its due amount.

Such a company as we have described, may the Bank of England be considered, in the present state of the law. Let us not be understood as vindicating that establishment from the numerous charges that have been urged, and justly urged, against it. It is not our present business to enter into that discussion. We have laid down the preceding principles for a particular object, and shall apply them at present to no other. Extensive as the improvements are of which the national currency is susceptible, the community, in lieu of a better, are still benefitted by the circulation of Bank of England paper. The amount to which they are benefitted is co-extensive with the amount of capital let loose from the office of circulation to be employed in productive uses. The real object of regret is the restriction of Bank paper to so high a sum as 5l.: for we fully concur in the opinion "that a currency is in its most perfect state, when "it consists wholly of paper money of "an equal value with the gold it professes "to represent."

A brief application of these principles will throw light on the merits of the debate on Mr. Jones's petition. We assume, what is at present the fact, that Bank-notes are exchangeable for gold on demand. So it seems are the notes of country bankers; and we contend, in opposition to the supporters of Mr. Jones's petition, that so long as Bank paper is thus convertible, not only is it indifferent whether country notes be convertible into gold or not; but it would be better that payment of those notes should only be demandable in Bank paper\*. On this account we are at a loss to conceive why Mr. Huskisson should plume himself

on "resisting the attempt" of the country bankers to introduce a clause into Mr. Peel's bill, enabling them to cash their paper in notes of the Bank of England instead of gold. A really convertible Bank paper is for all purposes as good as gold; by all, but its issuers, it ought to be a legal tender, and, unless the public convenience must be sacrificed to individual whims, no reason can be alleged why any portion of the capital of the country should be locked up in sovereigns, instead of serving the offices of production, in the various departments to which public necessity may call them. If private persons will indulge in such caprices, it is but fair that they should pay for them. As soon as country bankers shall have ascertained the average supply of cash, which the freaks of individuals may require, there is no doubt but gold will be forthcoming on payment of an adequate consideration to meet their demands. To gentlemen who prefer gold to paper, half-a-crown or five shillings per centum would not seem an extravagant charge for so great an indulgence. This rate would, of course, suppose a much larger number of virtuosos than exist in practice; if the rate should rise to 5l. per centum, even that could not be deemed too high a price for the honour such persons enjoy of possessing so different a taste from the rest of the human race.

We cannot feel Mr. Hume's objection, that convertibility of country notes into Bank paper only would tend to produce an *over-currency*, and a consequent disorder in the money transactions of the country. This objection would be valid, if Bank paper itself were inconvertible; but whilst the Bank is liable to pay in gold, the evil cannot occur. By *over-currency*, Mr. Hume must mean such an issue of paper as shall reduce its value below that of gold. If country paper can be issued to that extent, without reducing the value of Bank paper, its depreciation will be as certainly remedied by its convertibility into Bank paper as into gold. If, however the over-issue and consequent fall of country paper be accompanied by a corresponding fall in the paper of the Bank of England—what will be the consequence? The Bank notes will be presented for gold, till their quantity be so diminished as to equalize their value with

\* From the circumstance of the Bank of England paper being confined to notes of 5l. and upwards, it is obvious, that whatever may be the legal liability of country bankers to pay their own notes in gold, they are to all intents liable in fact. To compel them to pay their notes in gold, the holders of their notes have only to present them for payment, in any number less than five at a time.

that of the precious metal—which brings us to the former case.

But we are told by Mr. Hume and others, that the quantity of country paper is so great, that “no gold can be got in the country” at all. So much the better. Who wants it? Of what use is it? How should we be the better if we had it? We know of but one case worth mentioning, in which gold can be preferable to Bank paper; and that is, when the issuers of paper become so blind to the suggestions of interest, as to send it forth in too great abundance. When a sovereign, worth 20s., can be had at the Bank for a note which may be got for 18s.—when the paper is too abundant by one-tenth, a sovereign is better than a note by 2s. exactly.

We have already intimated our dissatisfaction with the Establishment of “The Governor and Company of the Bank of England;” we are also anxious that our remarks may not be misconstrued into an approval of the system of Country Banks. It has not been our business, on this occasion, to discuss the merits of either system, but to ascertain the policy by which things, as they are, may be rendered most conducive to the public service.

The only point remaining to be noticed, is Lord Folkestone’s dismal account of the hazard, expense, and dilatoriness of the legal process, which the holder of a country note must have recourse to, to get it cashed by a refractory banker. Summary process, as we have shewn elsewhere, is by no means unpalatable to our taste; but in exposing the difficulties of exchanging a note for a sovereign, Lord Folkestone has only described the obstacles which lie in the way of justice, whenever and for whatever cause it is sought for in an action at law.

The foregoing remarks were written shortly after the debate took place, to which they are appended.

We have lately witnessed a series of failures amongst the London and country bankers, which may be supposed to have modified the opinion expressed above. A moment’s consideration, however, will shew, that the circumstances were in no degree calculated to affect our previous opinion; and were, in fact, altogether

unconnected with the grounds upon which it had been formed. The late failures prove, and prove beyond all doubt, that the system of country banking in England is essentially bad. We are so far from denying this, that we not only cautioned the reader against misinterpreting our remarks on the impolicy of compelling country bankers to pay their notes in gold, so long as we should possess a convertible Bank of England paper, into an approval of that system; but it has met the constant reprobation of those eminent writers whose opinions form the basis of most of the economical reasonings in the present work.

It was not, however, our business to enter into the merits of that system. We contended, and still contend, that so long as Bank paper shall remain on its present footing, the holder of the country note will be armed with no additional security by a liability on the part of the country banker to pay in gold, nor will the public be protected against the over-issues of provincial notes; whilst a large portion of the general capital must remain inert in the shape of the precious metal. There was nothing in the late occurrences to disprove this proposition. Those who held the notes of country bankers suspected of insolvency, were well satisfied if they could get Bank paper in exchange, and never dreamed of asking for gold.—The notes of the Bank of England passed as currently during the time of the panic as gold or silver, and experienced no loss of confidence. These events, therefore, may prove the insecurity of allowing so large a portion of the currency to be supplied by individuals, or small companies, consisting of at most five partners; but they leave the question as to the inutility of compelling country bankers to pay in gold altogether untouched. We see, therefore, nothing in those circumstances which should induce us to alter a single line of what we have advanced above, with respect to Mr. Hume’s petition.

Having touched upon this subject, we may conclude by expressing a hope, that the late distresses will be duly applied for the purpose of exposing the enormous evils resulting from the monopoly of the Bank of England. So long as that monopoly shall exist, it is impossible to make any effective change in the system of provincial banking.

*Joint Stock Companies.*

I. A TRADE, or a particular trading enterprise, may be of such a nature, that a solitary individual, or a few individuals in partnership, would not, probably, undertake it, or would not undertake and conduct it with the greatest possible advantage to the community at large. For, first, it might be physically impossible to carry it on, without a larger capital than a solitary individual, or a small body of individuals, can commonly command. Secondly, a capital embarked in it might be put to unusual hazard. Thirdly, the return to an extensive capital would be proportionally, as well as absolutely, larger than the return to a moderate or a small one: in other words, the commodity or service, to be produced or rendered, might be provided, with an extensive capital, at a smaller cost. On the first and second of these suppositions, the trade or enterprise, though certainly or probably advantageous to the community, would hardly be undertaken by a solitary individual, or by a few individuals in partnership. On the last, individuals would engage in the trade, singly, or in limited partnerships (unless it were likely that they would be encountered in the market by more extensive associations); but they would not undertake and conduct it with the greatest possible advantage to the community at large.

On any of these suppositions, the establishment of large trading associations (call them extensive partnerships, or call them joint stock companies) would be advantageous to the public. On the first or second supposition, the commodity or service would not be provided at all, by any but joint stock companies. On the last supposition, it would not be provided by any but joint stock companies, at the smallest possible cost, and for the smallest possible price.

II. 1. The extent to which joint stock companies will be established, must be more or less affected by the law of partnership; especially by that portion of it, which regards the obligation of the individual partner to satisfy the obligations of the body. By the general law of partnership which obtains in England, every partner is liable for all the debts and engagements of the body, not only to the extent of his interest in the joint stock, but also to the whole extent of his separate property. As between the partners them-

selves, the extent to which each is liable, is limited by express agreement, or by the contract which the relation implies; but as between himself and strangers to the society, each of the partners is liable without limitation, unless they be exempted by privilege from the obligation imposed by the law. A privilege exempting the partners from this general obligation, may be granted by the supreme, or by a subordinate, legislature; by Parliament or by the Crown. If a partnership be incorporated by charter, each partner is merely liable to the extent of his share or interest in the stock of the society. Such, at least, was the necessary consequence of a charter of incorporation, before the close of the last session of Parliament. At present, the Crown is empowered to grant charters of incorporation, by which the members of the corporate bodies may be made individually liable, *to such extent, and subject to such regulations and restrictions* as the Crown (or rather, the advisers of the Crown) may deem expedient\*. If a partnership be privileged by Act of Parliament, the extent to which the partners are made individually liable, depends, of course, upon the discretion of the legislature. It may be made a corporation, strictly so called; and then each member is merely liable to the extent of his interest in the corporate property: or being simply relieved from certain technical difficulties, which would otherwise lie in its way, when it attempted to recover its debts, it may be left subject, in all other respects, to the obligations imposed upon partners, by the general law of partnership. Such, it would seem, is the amount of the privilege, when a company is merely empowered to sue by some officer, or servant.

2. In France, *anonymous partnerships* (which closely resemble such of our trading companies as are corporations, strictly so called) are not legally constituted, unless their establishment be specially authorized by the King. But trading partnerships may be constituted, either *en nom collectif*, or *en commandite*, at the discretion of the interested parties. A partnership is denominated a partnership *en nom collectif*, when every partner, as between himself and strangers to the society, is liable without limitation for all its debts and engagements. It takes the name of a partnership *en commandite*, when it subsists between one or more

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\* 6 Geo. IV. cap. 91, sec. 2.

partners liable without limitation (*associés responsables et solidaires*), and one or more partners liable to a limited extent (*commanditaires ou associés en commandite*). If there be more than one partner liable without limitation, the partnership, is, at one and the same time, a partnership *en nom collectif*, as to the two or more who are so liable, and a partnership *en commandite*, as to those whose liability is qualified.

A *commanditaire*, or partner *en commandite*, is not liable to creditors or other claimants upon the society, beyond the amount of the capital which he has contributed, or engaged to contribute, to the joint stock. On the other hand, he is prohibited from acting for the partnership in its dealings with third persons. Its trade or business is exclusively conducted, in the name or names, and by, or under the control of, one or more of the partners, who are liable without limitation. The name of a *commanditaire* is not permitted to appear in the name or firm of the society; and if he engage or intermeddle in any dealing with strangers, either in his character of partner, or as agent of the partners who are liable without limitation, he instantly loses his immunity, and is thenceforth responsible, to the same unlimited extent, for the partnership debts and engagements.

We have seen that a *commanditaire* is prohibited from acting for the partnership in its dealings with third persons. It would also appear, that he is not directly liable to any third person having a claim upon the society, even to the extent of the capital which, by contract with the partner responsible *in solido*, he engaged to contribute to the joint stock. The debts and engagements of the partnership are exclusively contracted by, or in the name of the partner responsible *in solido*; and so long as he is solvent, the creditors or other claimants upon it must look to him alone for satisfaction. If the *commanditaire* has not advanced the capital which he engaged to contribute, he may be compelled to advance it by the partner responsible *in solido*, and may thus indirectly satisfy the partnership obligations. But, directly, the creditors or other claimants have no remedy against him, unless the partner responsible *in solido* become bankrupt; on which event, the joint stock (including the debts due to it) and the separate estate of the bankrupt partner

(subject to such prior claims as his separate creditors may have upon it) are applied in satisfaction of the partnership obligations, so far as they are required for the purpose, or will extend to answer it. Now, on that event, the joint stock, together with the separate estate applicable to the purpose, may be, and probably will be, insufficient to satisfy the obligations of the society. In this case, if the *commanditaire* has advanced the capital which he engaged to contribute, and has not taken money or money's worth from the joint stock, the whole of that capital, as forming a part of that stock, is applied in liquidation of those obligations; but there his liability ends. In the same case, if he has not advanced capital in pursuance of his engagement, or has taken money or money's worth, he is a debtor to the joint stock, to the whole extent of what he has taken, and of what he has failed to advance; and the assignees in bankruptcy, or such other persons as represent the claimants upon the partnership, may proceed against him for this debt, as against any other debtor to the partnership estate. We have presumed that he is liable to account for whatever he has taken from the joint stock, even as his share of foregone profits; for he is obliged to bear the losses of the partnership, to the extent of the capital, which he has contributed, or is bound to contribute (*jusqu'à concurrence des fonds qu'il a mis ou dû mettre dans la société*): the terms of which obligation would not, it should seem, be satisfied, if he were not compellable to refund.—It may happen that the joint stock, together with the separate estate, applicable to the purpose, are more than sufficient to satisfy the obligations of the society. In that case, the partner *en commandite* (who is a creditor of the partner responsible *in solido*, though a debtor to the creditors of the partnership) may resort to the joint stock and the separate estate, for whatever was due to him at the bankruptcy, or the assignees have obliged him to pay: but not in competition with creditors who are not also partners. In favour of their paramount claims, he is excluded from the fund, till they are satisfied to the uttermost farthing.

Finally, the formation of the partnership must be evidenced by instrument in writing; and an extract of that instrument (containing, amongst other things,



the name or names of the partner or partners responsible *in solido*, and the sum total of the capitals contributed or to be contributed *en commandite*) must immediately be inserted in a public register, and posted up for a certain period thereafter in a place of common resort\*.—It appears to us, that the security of the claimants upon the partnership would be more complete, and that it would inspire more confidence into such third persons as it might seek to deal with, if the names of the *commanditaires*, and the extent to which each was liable, were also denoted by the extract.

III. 1. Though the formal constitution of a joint stock company may invest the body of its members with powers of superintendence and control, in practice they are inevitably passive. They contribute capital, and receive accruing profits, in proportion to their respective interests; but the conduct of the enterprise is abandoned to a few of the partners, or delegated to hired agents. These acting partners, or agents, represent the company in its dealings with strangers; and each of its members is liable, to a limited or unlimited extent, for the debts and engagements which they may contract on its behalf. The company, or the great and passive majority of its members, must trust to their honesty and discretion; for there is little security, besides, that they will not abuse their power of binding their constituents. If a member of the constituent body be liable without limitation, 'every acre that he owns, and every shilling that he is worth,' are staked upon the conduct of his representatives. He is responsible to that formidable extent, for debts and engagements which may be contracted without his approbation. The claimants may resort to him for satisfaction of their demands; and though each of his partners be liable for a proportion of the loss, he may, practically, be unable to obtain the contributions to which he is legally entitled.

The rule, therefore, of the English law, must sometimes prevent undertakings which would benefit the adventurers and the public. The prospect of unlimited liability for obligations contracted by others, is enough to discourage a cautious man from adventuring in a joint enter-

prise. The project may be well imagined, well considered, and likely to succeed: but still he might lose his all by the misconduct of the managers; and the mere chance of incurring this fearful evil, outweighs the probability of gain. Compared with this rule of the existing law, the mysterious terrors of the unintelligible Bubble Act were a feeble obstacle to the establishment of joint stock companies. Any man will see that such is the tendency of the rule, if he look to the common course of human affairs, instead of attending exclusively to the incidents of the passing hour.

For this reason, and for reasons which will appear hereafter, we strongly incline to think that the rule should be abolished, and that such a change should be made in the general law of partnership, as would enable partners to limit their liability to creditors, without the special sanction of parliament or the Crown.

The admission of partnerships *en commandite*, is the specific change which we venture to suggest; and that, for reasons which will also appear in the sequel.

A joint stock company constituted *en commandite*, would consist of a partner, or of a few partners, acting and responsible *in solido*, and of a numerous body of partners who contributed capital merely, and were liable to a limited extent. The acting partner, or partners, would manage the trade, or enterprise, at his or their discretion, accounting to the rest of the company for the application of the partnership funds, and distributing accruing profits in the proportions and manner agreed upon.

2. If the rule of the Law of Partnership sometimes prevents undertakings which would benefit the adventurers and the public; if the evil be corrected, imperfectly, by the special and occasional interference of Parliament or the Crown; and if the change which we have ventured to suggest would not be followed by greater or equal evil, the expediency of the change is proved. The first of these propositions may be assumed. The second and the third we shall attempt to demonstrate in the course of the ensuing argument. In our attempt to demonstrate the last, we shall endeavour to establish the following subordinate propositions, though not precisely in the following order.

The persons whose interests might be affected by the change, may be classed thus:

\* See *Les Cinq Centes, avec Notes et Trajets*, par J. B. Sirey (à Paris, 1819), pp. 161, 284, 626, et seq.

Members, or persons thinking to become members, of joint stock companies: solitary traders or limited partnerships, rivals of such companies in trade: creditors of partnerships constituted *en commandite*: the community at large. We shall accordingly endeavour to establish,—That though the rule were abolished, and the discouragement which it holds out were withdrawn, persons thinking to adventure in extensive joint enterprises would not engage in enterprises not advantageous to themselves: More briefly, that the rule is unnecessary as a check upon improvident speculation:—That enterprises advantageous to the adventurers, are also advantageous to the public; and that for this, coupled with the preceding reason, a change removing the discouragement would be generally useful:—That creditors of companies constituted *en commandite* would be less, or not more, obnoxious to loss and disappointment than creditors of companies constituted in the ordinary manner:—That though the rule were abolished, and the discouragement were withdrawn, joint stock companies would not be set on foot in opposition to solitary traders, unless they could provide the commodities or services with greater advantage to the community.

Such is the general purport of the ensuing argument; though various topics, which we think it unnecessary to announce, will be adverted to as we proceed.

Before we proceed, we must interpose the following caution. If the rights of strangers stand in the way of an enterprise, and they are either incompetent or unwilling to cede those rights, the enterprise cannot be accomplished without special legislative sanction. For instance, a project for cutting a canal may require an Act of Parliament, inasmuch as it would traverse the lands of proprietors who refuse to relinquish their property. To enterprises of this class, the ensuing argument will not apply, or must be applied with limitations. We shall touch upon such enterprises at the end of our essay\*: But, in the meantime, we must be considered as contemplating trades or enterprises, which companies can carry on without special sanction (subject to the obligations imposed by the general law).

With this caution we proceed: endeavouring to establish, in the next section, that the rule is unnecessary as a check

upon improvident speculation; and that a change removing the discouragement would be useful to the community at large.

IV. 1. Trading with a large capital is subject to disadvantages, certain and contingent, from which trading with a small capital is commonly exempt. In addition to these general disadvantages of trading with a large capital, trading in an extensive partnership (whether it be constituted in the ordinary manner, or *en commandite*, or as a corporate company) is subject to disadvantages of its own. The individual who trades with a small or a moderate capital, is not constrained to limit his attention to the general conduct of his trade, but may look to its minutest details. The individual trading with a large capital, must abandon details to the direction or superintendence of servants: the payment of whose wages is a great and certain disadvantage; who may be honest, skilful, diligent and frugal, but to whose frauds, or mistakes, or negligence, or habitual disregard of small savings, he is obnoxious. The large details of an extensive joint enterprise must also be abandoned to the direction or superintendence of servants and the members; or the majority of the members, of the joint stock company, are subject moreover to disadvantages which the individual trader may avoid. The individual trader, though he trade with a large capital, may keep the general conduct of his trade in his own hands. The general conduct of the extensive joint enterprise must be delegated to servants, or to one or a few of the partners: on the first of which suppositions, the whole company, and on the second, the great and passive majority of its members, are subject to the disadvantages of agency management, in the general, as well as in the detailed, conduct of their affairs.

On either supposition, the persons to whom the general conduct is delegated must be rewarded for their services. If they be hired agents, by wages. If they be acting partners, by wages, under that name; or by what comes to the same thing, larger shares in the profits of the enterprise, than they would otherwise receive upon the capitals which they contribute to the joint stock. Let the company be constituted as it may, this disadvantage is inevitable. The contingent disadvantages which are peculiar to trading in a company may be more affected by its constitution.

Setting aside the singularities of individual cases, the persons to whom the general conduct is delegated will probably conduct the enterprise with more or less of benefit to the company, as they are more or less responsible for its debts and engagements, and more or less exempted from the intermeddling of their principals or copartners. In these respects, the constitution of the partnership *en commandite* is so excellent, that if the adventurers in any extensive enterprise could form themselves into a company at their own discretion, either on that scheme, or in the ordinary way, or on the model of a trading corporation, they would probably pitch upon the first as presenting the fewest disadvantages. For if a partnership be constituted *en commandite*, its responsible members are liable to creditors to the whole extent of their means; and, unless they become bankrupt, exclusively liable. Consequently, they cannot mismanage the business confided to their care, or contract engagements unduly on the partnership account, without great, certain, and immediate evil to themselves. But if the partnership were formed on the model of a corporate company, these acting members would be responsible to a limited extent. If it were formed in the ordinary way, creditors could resort, directly and indifferently, either to these acting members or to any of their numerous partners. If, instead of conducting the enterprise as acting members, they conducted it as hired agents, they would not be liable at all, or would be liable, indirectly, through a contract to indemnify their principals. Wherefore, speaking comparatively, the evil which their mismanagement might bring upon themselves, would be narrow, uncertain, or remote.

If the managers were liable to creditors, exclusively and to the largest extent, their partners would probably lose by interfering with the conduct of the enterprise. Having taken this highest security for diligence, fidelity, and care, the majority of the members would do wisely, if they simply obliged their deputies to render an account of their management, and to distribute accruing profits in the proportions and manner agreed upon. The enterprise has been committed to the acting partners by a numerous body; by some of this body their pretensions must have been examined; and the chances,

therefore, are, that they have more of appropriate knowledge, or, in some way or other, are more fitted to conduct it, than any of their constituents. Besides, the body, or any select portion of the body (call it a Court of Directors, Committee, or what not), can only interfere by fits and starts. It is not their habitual occupation. The thread of the enterprise is not in their hands. Its course and circumstances are not fully present to their minds. By their desultory attempts to instruct and control they might thwart and embarrass their servants, but would not add a jot to their own security.

But though a joint stock company were constituted *en commandite*, still it would trade under a load of peculiar disadvantages. The load might be lightened, but it would not be removed. Let a joint stock company be constituted as it may, all, or nearly all, its members are inevitably subject to the disadvantages of agency management, in the general conduct of their business, and throughout its extensive details.

2. Their peculiar liability to internal dissension is another disadvantage of no small moment, whether such questions as may arise amongst them must be referred to a court of justice, or fall within the competence of some domestic tribunal, provided by the members for themselves. It has been said, that a court of equity will not compel partners to account to their copartners, without decreeing a dissolution of the partnership, a sale of such portion of its stock as may not consist of debts or money, and the distribution of the whole amongst the members, according to their respective interests. Nor can we perceive that any tribunal could often avoid this course, in case the litigant parties refused to adjust their differences. This destructive proceeding would not, indeed, be inevitable, if the defendants were merely required to account for their past management. But if the plaintiffs believed that there had been misconduct, they would of course suspect that there was, and would be, misconduct; and would probably call upon the court, at the outset of the cause, to save the partnership property from further misapplication. If the court entertained the motion, it might make an order, with a view to the dissolution of the partnership, or with a view to its indefinite continuance. In the first case, some officer

of the court, or other stranger to the partnership, would be directed to receive its debts, to secure the rest of its property, and to close its pending transactions. In the second, the immediate management of its business must also be committed to a stranger, or left in the hands of the defendants, or intrusted to the plaintiffs. The order having been granted on evidence of their misconduct, the management could not be left in the hands of the defendants. It could not be intrusted to the plaintiffs; for the defendants would then be obnoxious to the same or a similar wrong. Till the end, then, of the suit (which, in such a matter, would scarcely be a short one), it would be committed to some stranger, without appropriate knowledge of the business; without interest, or with a transient and feeble interest, in its success; and whose ignorance and supineness would be almost as mischievous as the sinister activity of any of the litigant parties. But if the partners preferred this alternative to a friendly arrangement of their differences, their mutual distrust must be incurable; their enmity, inveterate. If their connexion survived the suit, the remnant of the partnership property, which had escaped the *interim* management, would soon be destroyed by their own. Any proceeding that the court might adopt would be followed by great evil to the parties; but it would best consult their interests by dissolving the partnership, and taking immediate order for the security of its debts and effects.

If, therefore, a court of justice interfere with the disputes of partners, it will certainly waste their property, and probably balk the purpose for which the partnership was formed. But if all partners be obnoxious to this evil, the members of a joint stock company are peculiarly exposed to it. Some of its many members must be fools: And by false suggestions and fabricated evidence, a single vindictive blockhead may bring down this ruin upon the heads of his numerous associates. At the very least, he may consume their time, distract their attention, and impede the business of the company, by repeated, though fruitless, litigation.

By the deed or articles of association, the members of a company might provide a tribunal for themselves. They might, for instance, agree, that differences amongst

the partners, arising out of partnership matters, should be decided by a vote of the majority, or determined by arbitration. And a provision to either purpose (if it were binding upon the partners) might exclude a court of justice, or mitigate the evil of its interference. By decisions, however, of the English judges, a provision to the latter purpose is utterly inoperative: And we infer from the reasons in which those decisions are bottomed, that a provision to the former purpose would be just as ineffectual.

An award made, or a reference depending, is, it should seem, a sufficient bar to an action or suit by partners against copartners. But partners may sue copartners, at law or in equity, in spite of an *agreement* between the parties that their differences shall be determined by arbitration\*. Of the reasons which are rendered in "our books" for this last-mentioned rule, the following stands foremost:—"Because, although a reference depending, or made and determined, "might be a bar, yet a mere agreement "to refer cannot oust the superior courts "of their general jurisdiction." Upon which it is natural to remark, that the reason is a bad one, and is badly applied. Is the interference of a court of justice *useful* or not? Till this question (which is not adverted to) be settled in the affirmative, it is impertinent to allege, "that "courts would be ousted of their jurisdiction, if the agreement were binding "on the parties." Besides, if the reason be a good reason for disregarding an *agreement* to refer, it is also a good reason for annulling an award, or for taking a pending reference from the hands of the arbitrators: since, in each of these cases, courts are ousted of their jurisdiction. The rule is deduced inconsistently, from a premise which is impertinent.—Having done with this luscious morsel of technical reasoning, we gladly turn to utility.

If a domestic tribunal, provided by a company for itself, could take cognizance of differences between the partners, and could determine without appeal, some of these differences might be decided hastily or partially. If there were no domestic tribunal competent to quell such disputes, the existence, or prosperity, of the whole body might be extinguished, or endan-

\* See the cases collected in Mr. Gow's *Treatise on the Law of Partnership*, pp. 115, 125.

gered, at any instant, by any of its members. There is evil on either side, but the greater evil lies on the last.—Nor is it extremely probable, that a tribunal of the company's appointment would decide less correctly than a regular court of justice. In some instances, it might be less impartial; but in all instances, its means of ascertaining the merits would be more complete. Courts are unequal to the complicated questions of fact (questions, for instance, of account) which are likely to arise between partners. The English Courts confess their incompetence by their daily practice. When a question of the kind is brought to trial, the parties are exhorted by the judge to refer the matter to arbitration. The litigants are first excruciated with the expenses and vexations of a suit, and are then commended to the irregular, but more efficient, justice, which, had they been wise, they would have resorted to at the outset of the contest.—Brought into juxtaposition with this practice of the English Courts, the rule above mentioned is sufficiently curious. An agreement to refer is not an answer to a suit; but parties, who have suffered the evils of a suit, are exhorted to refer the difference.

It may also be remarked, that the decisions of a tribunal, provided by a company for itself, would only affect persons who were parties to the provision, or persons who might be bound by it with as little inconvenience.

A man acquires his interest in the stock and profits of a company, in one of three ways. He acquires by some act to which he was a voluntary party, and by that act alone; or, partly, by some incident to which he was a stranger: On the last of which suppositions, he takes by gratuitous title; or he acquires for valuable consideration given to another purpose. For example, original members of a company, or those who afterwards become members by purchase or gift, acquire their interests in the first of these ways; legatees of a deceased member, in the second; creditors of a bankrupt member (by their representatives, the assignees), in the third.

A person, acquiring his interest in the first of these ways, might be bound, without inconvenience, by a tribunal of the company's providing. He acquired his interest of his own will merely, assenting to the provision, and looking to

its probable consequences. Nothing can be plainer, than that a voluntary party to an agreement which is generally useful, should not be permitted to recede from it.—Though a person in the second predicament did not assent to the provision when his interest attached, he acquired gratuitously through a person who did. For obvious reasons, those who take gratuitously (heirs and devisees, for instance, as well as legatees) are generally bound by the obligations of their predecessors: and the general principle should be applied here, unless some special cause can be shewn to the contrary.

If a company were constituted *en commandite*, interests might be acquired in its stock and profits by creditors of three several classes: by separate creditors of partners *en commandite*; by separate creditors of partners responsible *in solido*; by creditors who had dealt with these last, as acting for, and representing the society.—Creditors of the third class would be creditors of the company as a body; and, for reasons which it is needless to assign, ought not to be obliged by its regulations.—Creditors of a partner *en commandite* would not be creditors of the company. Their debtor would have dealt with them, not on behalf of the company, but upon his private and separate account. They might come upon the partnership property for satisfaction of their debts, but only as creditors of the individual partner, and to the extent of his individual interest. Unhappily, however, for the rest of the members, his share in the partnership property would be blended with the bulk. The whole would be one mass, subject to the rights of numerous parties: And in order to define the portion to which his creditors might resort, it would be necessary to dissolve the partnership, and, in the language of the English Courts, to “wind up its concerns.” The consequences are obvious. If unjust pretensions were advanced by his creditors, and their claims could not be disposed of in a summary manner, the company might be destroyed. Though the company, as a body, were solvent, and even prosperous, it might be involved in questions with the creditors of any single shareholder, which would force it into a court of justice, and lead to its dissolution. The mischief, however, would be obviated, simply and without inconvenience, in case a provision to the follow-

ing purport were inserted in the instrument of association, and were binding upon the separate creditors of the partners *en commandite*.—That if creditors of any such partner should resort to the partnership property, any of his copartners might satisfy their claims upon it, by paying them the amount of the capital which their debtor had contributed: And that after such payment, the interest of the debtor, and of all entitled under him, should vest in the partner by whom the satisfaction had been made. By the English law, provisions analogous to this, though made with the concurrence of the indebted partners, are void, as against their creditors\*. It is manifest, nevertheless, that separate creditors might be bound by the provision, with great advantage to others, and without inconvenience to themselves. If it were binding, it might save a solvent and prosperous company from needless dissolution. The creditors of the company would be benefited; inasmuch as the interest, and, with the interest, the obligations of the debtor, would devolve from an insolvent, upon a solvent, proprietor. As a class, separate creditors would not be curtailed of their rights. In some instances, an arrear of profit might be due to the indebted partner, and his creditors might be deprived of it unjustly. But in others, the amount of the capital, which he had contributed to the joint stock, would exceed the value of his present interest. Speaking, therefore, generally, the value of his interest, as measured by the amount of his advances, would approach pretty closely to its actual worth. Besides, if his interest were ascertained by judicial process, the partnership property would be wasted. His share, as thus determined, might surpass his share, as measured by the amount of his advances; but the thing to be divided would be a wreck. The exquisite justice, which his creditors might obtain from the court, would be worse than the grossest injustice, which they might suffer

at the hands of the company.—As against the separate creditors of the partners responsible *in solido*, a similar provision might be made, but would probably be useless. During their solvency, little inconvenience would arise to their constituents, though the joint stock in their possession, as well as their separate property, could be taken in execution by their separate creditors, as well as by the creditors of the company. So long as they were solvent, such an incident would scarcely happen. If such an incident did happen, they would probably be insolvent, and their bankruptcy would speedily ensue: On which event, the company would be dissolved of necessity; inasmuch as the joint stock, as well as the separate estates of the bankrupt partners, would be administered under the bankrupt laws.

There are certain difficulties, touching the necessary parties to suits, which arrest or retard the march of English justice, so often as the interested persons are unusually numerous. In this respect, the scrupulosity of the English Courts is pushed to pernicious excess: And the difficulties, when inherent in the subject, are always aggravated by their elaborate systems of procedure. We have therefore assumed, as yet, that these difficulties might be surmounted: that members of a company might sue and be sued with effect, in their contests amongst themselves. And proceeding on this assumption, we have shewn, or endeavoured to shew, that their differences would be better decided by a domestic tribunal, than by any of the regular courts.—Assuming that these difficulties are not to be surmounted, the members of every company would be excluded from justice, unless a tribunal of its own providing were competent to determine their disputes. A partner, or partners, might sue a copartner, or copartners; but the suit would be defective for want of the necessary parties. The applicants for justice would stick at the threshold of the court. The evils of litigation might be inflicted and suffered, but none of its fruits could be obtained. Debarred from the regular tribunals—without resort to a competent tribunal of their own,—the body of the company might be injured, with impunity, by any of its members. All would lie at the mercy of each.

A company, therefore, would be placed in the following dilemma, unless a tribu-

\* Assignees under a separate commission are entitled *specifically* to the interest of the bankrupt partner; and no agreement made between the partners can prevent their right from attaching. *Wilson v. Greenwood*. 1 Swanston's Reports. For the mischiefs likely to arise from the claims of separate creditors, consult the Treatises on Partnership, under the following heads:—"Execution against a single Partner;"—"Bankruptcy of a single Partner."

na / of its own providing could quail its intestine dissensions.—If the difficulties just mentioned are not to be surmounted, its members would be excluded from justice, though obnoxious to the evils of litigation. Assuming that these difficulties are to be surmounted, its members could sue and be sued with effect; but their property might be wasted, and their enterprise defeated, by the bungling interference of the courts.

If a provision to the following effect were inserted in the deed of association, and were binding upon all the members, most of their disputes might be determined by a tribunal of their own. It might be provided, That every difference amongst all or any of the members, arising out of partnership matters, should be submitted to arbitration: That the parties to the dispute should appoint the arbitrators in a manner prescribed by the deed: That all the parties should be bound by their award: And that if arbitrators should not be appointed, or should not make an award, the majority of the company, or a committee elected by the majority, should take cognizance of the matter in difference, and make an award in their stead. If courts of justice would give effect to it, the agreement might be enforced in the following manner. In case a partner or partners sued upon any matter in difference, any of the defendants might appear to the suit, and answer to it by insisting upon the provision. In case a partner or partners resisted the domestic tribunal, any co-partner might sue upon its award, and the court might lend its process for the purpose of enforcing obedience. In either case, the only question which would probably arise in the suit, is this:—Whether the difference between the parties fell within the scope of the provision? or, in other words, whether the difference related to a partnership matter? This being decided in the affirmative, the complaint would be dismissed, in the one case; and the award would be enforced, in the other. The company would not be vexed with protracted litigation; nor would the awkward hands of the court be laid upon its property and trade\*.

In attempting to recover its debts, a joint stock company, constituted in the ordinary manner, is stopped or impeded by those difficulties about parties to suits, to which we have already adverted. If a company were constituted *en commandite*, its claims upon strangers would be prosecuted with ease and effect. The partners *en commandite* being prohibited from dealing on its behalf, its contract would be made and its suits would be instituted, in the name or names of the acting partner or partners. In all its relations to strangers, the body, though large, would not be unwieldy, but could move as easily and promptly as a partnership consisting of a few.

But as to the wrongs which they are liable to suffer from one another, the members of a joint stock company, however it might be constituted, would be placed in an awkward position. A tribunal of their own might be handy and effective; but some would probably sustain, and all would fear, injustice from its occasional precipitance or partiality. A regular tribunal would be impotent; or if it interposed with effect, its interference would probably be mischievous. It could hardly cure a grievance, though peculiar to one or a few, without defeating the purpose for which the company was formed, and inflicting evil upon all. In their attempt to do justice between members of extensive partnerships, the regular courts (to borrow an illustration from Hobbes) "are a bungling sort of tinkers, who, with their clumsy endeavours to stop and solder, make more holes than they mend." In short, the members of the company would be debarred from redress; or every means of redress to which they

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appeal, however, lying to a regular tribunal, unless the right to appeal has been relinquished by agreement between themselves. These dispositions extend, not only to partners, but to those who are interested through them (*aux veuves, héritiers, ou ayens-cause des associés*). Whether separate creditors would be considered, for this purpose, as falling within the last description, we are not prepared to determine.

These dispositions, it appears to us, are of little or no use. Unless the right to appeal has been abandoned by agreement, the party dissatisfied with the award appeals, as of course; and the trouble of a fruitless reference is added to the vexations of a suit. The law would be more simple, and just as efficacious, if partners were permitted to choose their tribunal, but were bound by an agreement to refer.

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\* By certain dispositions of the French Commercial Code (Tit. 5, sec. 2.), partners are *obliged* to submit their differences to arbitration: an

could resort, would be pregnant with inconvenience. To this disadvantage, as well as to the disadvantages of agency management, joint adventurers in extensive enterprises are inevitably exposed.—With which unfavourable conclusion, we now proceed, without further digression, to the direct and more appropriate purpose of the present section.

3. Every ignorant ruler is mightily given to rule. Not satisfied with protecting the governed from the harm which they might do to one another, the impertinent meddler must needs protect them from the harm which they might do to themselves. But in spite of all that may be thought by drivelling and presumptuous legislators, the great majority of mankind are prudent, as well as laborious. The cheering truth is established by the progress of all large communities from poverty to comparative opulence. Since capital could never accumulate in quantities worthy of the name, if most of those who are able to save were not habitually saving, and their savings were not applied to the business of production with habitual skill and discretion.

This consideration is decisive of the question which we are about. For though the proposed alteration would facilitate the establishment of joint stock companies, the members, or the great and passive majority, of every such company, would still be subject to peculiar and obvious disadvantages. But most men are habitually prudent; and (speaking generally and with a view to lasting results), persons who thought of adventuring in extensive joint enterprises, would not overlook these disadvantages. On the contrary, disadvantages so great and obvious would incite them to examine such projects with unusual attention and severity. Therefore (still speaking generally and with a view to lasting results), extensive joint enterprises would not be undertaken imprudently, although it were competent to the adventurers to limit their liability at pleasure.

That the inducements to examine such projects would be great and obvious, will hardly be disputed. It may, however, be objected, that most who thought of adventuring would be incompetent to the inquiry. To this objection, therefore, we will now address ourselves as briefly as the subject will permit.

A projected company might thrive in

any of the following cases:—If the trade required such capitals as few individuals could command:—If solitary traders were commonly deterred from it by a prospect of unusual hazard:—If the cost of the commodity, as produced by an extensive capital, were less than the cost of it, as produced by a moderate or a small one\*. Otherwise, individual traders, with small or moderate capitals, would occupy the trade: The profits of the company would be below the average rate; or it would trade at an absolute loss, and its capital would be wasted by the competition†.—In the first instance, therefore, it would be incumbent on the inquirer to determine, Whether the trade or enterprise fell within the classes which are enumerated at the outset of this essay‡.—If the commodity were already produced, either by established companies, or by individuals with extensive capitals; if their profits did not exceed the average rate of profit; and if they already produced the commodity at the smallest possible cost; the projected enterprise would not prosper, although it belonged to the classes to which we have just adverted. For the intended addition to the commodity would lower its actual price, and that price would be the lowest for which it could be produced with advantage. The next questions, therefore, which the inquirer might be called upon to resolve, are these:—Whether extensive capitals were already engaged in the trade? Whether the profits on those capitals were above the average rate? And whether the commodity, as produced by those capitals, were already produced at the smallest possible cost? Each of these questions contains more specific questions, which it would also be necessary to resolve. If he sought, for instance, to determine, whether the commodity were already produced at the smallest possible cost, it would be incumbent upon him to enter into these, amongst other, inquiries:—Whether the capitals already applied to its production were applied, under the most skilful, the most vigilant, and the most frugal management? If applied to mining, or to obtaining raw produce of any sort whatever, whether they were applied to the most fertile subjects? If applied to raising raw produce, or to any other purpose, whether

\* *Ante*, Sec. I.

† *Post*, Sec. VII. 1.

‡ *Ante*, Sec. I.



the best instruments of production, or the best division of labour, had yet been introduced into the trade? Whether the projected company, in all or any of these respects, could produce the commodity with comparative advantage?

The preliminary question would present itself on a moment's reflexion; and, with regard to any common trade, would as speedily be resolved. Companies for supplying milk, or vegetables, or corn, or flour, or bread, or meat; for buying up and retailing fish; for burning bricks or lime; or for lending at interest on small pledges, are grossly absurd. It is manifest that individuals, with small or moderate capitals, can provide the commodities or services at a smaller cost. And looking at the common course of human affairs, we may be satisfied that the projectors of such companies would be listened to with indifference or derision.—If this preliminary question were determined against the project, the inquiry would go no further, and the inquirer would abstain from the adventure. If it were determined in favour of the project, he would proceed to the subsequent questions. He could probably be unable to decide these questions, and might be unable to decide the previous one, of his own knowledge. But he might always resort to evidence, sufficient for the guidance of his conduct, and such as any man of plain good sense could estimate. By whom has the company been projected? Who are its most active members? To whose management is the enterprise to be intrusted? What is the established reputation of these several persons for capacity, prudence, knowledge of the trade? What is their opinion of the project, as their opinion may be inferred, not from their representations, but from their actions? How far is their own property to be staked upon the result? Are the managers to be liable for the debts and engagements of the company, exclusively and without limitation? These are questions which he might determine with accuracy; and, by the result of the inquiry, he might safely regulate his conduct.

4. The result of the foregoing argument may be thus expressed:—A projected company would not prosper, unless it could produce the commodity at a smaller cost than its competitors, or the profits of those competitors were above the average rate. In either of these cases, the price of the commodity would be

permanently lower, if the project were carried into execution. But these are the only cases in which companies would be established, although it were competent to partners to limit their liability at pleasure. Consequently, the rule of the English law is needless and pernicious. It is needless as a check upon improvident enterprise; whilst it tends to prevent undertakings which would benefit the adventurers, and the community.

V. But the rule (it may be said) will always be relaxed in favour of useful projects. If the parties to a joint enterprise desire to limit their liability, they may apply to the Crown. The servants of the Crown would inquire into its merits; and, in case they deemed it advantageous, a charter with the requisite immunities would be granted to the applicants as of course.

The answer is obvious and easy. The servants of the Crown would not investigate, although they were competent to the investigation. They would grant or refuse the immunity to save themselves the labour of inquiry, or to please influential persons, whom it was their interest to conciliate. Their decision, in short, would turn upon any thing, rather than the merits of the project. But assuming that they were willing to investigate, they would not be competent to the investigation. We have already suggested a few of the questions which it would be necessary to resolve; and have shewn that the interested parties would not be unequal to the task. Though most of them must rely upon testimony, they might thoroughly ascertain the competency and the designs of the witnesses\*. The officers of the Crown would decide in the dark, whether they relied on their own fancied knowledge, or trusted to the opinions of others. If their ignorance and presumption were extraordinary, they would think themselves competent to the question, and would probably decide wrong. If they were better instructed, they would be guided by testimony, but by testimony which they could not estimate. They could not ascertain the competency and the designs of their informants, without more labour than they could afford to bestow upon the inquiry. If they listened to opinions unfavourable to the project, they might

\* *Ante*, Sect. IV. 3.

refuse the immunity, and defeat an useful enterprise, at the suggestion of the ignorant or the interested. If they acted on information obtained from the applicants, they would probably decide right, but their sanction would be superfluous and impertinent.—The evil of the general law is poorly palliated by the dispensing power of the Crown. The requisite immunities may often be withheld; and useful undertakings, prevented. And though the immunity be granted, the applicants are harassed with needless vexation, and loaded with unnecessary expense.

In short, the case stands thus:—Certain parties would undertake a certain enterprise, if they could limit their liability to creditors: the enterprise would be useful to the public, in case it were advantageous to themselves: the best evidence is within their reach, and they are prompted by their interest in the result to examine that evidence well. By whom, then, shall the matter be decided? Shall the interested parties be left to their own discretion? or shall the fate of the project be determined by public officers; who have not access to the best evidence; who lie under no inducement to examine the merits with care; who are probably indifferent to the question, or whose interest may be adverse to the community?

If the dispensing power of the Crown be a poor corrective of the evil, the occasional interference of the legislature is a worse. An application for an act of parliament conferring the requisite immunities, subjects the applicants to great expense, and to still greater vexation. The honourable and right honourable persons to whom the application is made, are utterly incompetent to determine the merits of the project. All are inevitably ignorant; most are indifferent and careless; and the few who bestir themselves, are partial. The negligence, the impudent injustice, with which pretended inquiries have been managed by honourable committees, have extorted expressions of indignation and scorn from the most temperate and discreet.

If an enterprise could not be accomplished without disturbing the rights of strangers, the legislature, though incompetent, must judge of the merits as it can. But no man would be molested in his rights by the enterprises which we now contemplate. If the parties to such

a project could limit their liability at pleasure, could sue and be sued with effect, and could provide effectual means of stopping their internal dissensions, they would neither require nor demand immunities from Parliament or the Crown. By a skilful amendment of the general law, all such cases would be provided for at once. To that extent, Parliament and the officers of the Crown would be relieved from inquiries to which they are utterly incompetent, and their attention would be less diverted from those objects of general interest which are the business of legislators and rulers.

The tendency, therefore, of the existing law, is to prevent advantageous undertakings; the exemptions occasionally granted correct the evil imperfectly; nor is the evil compensated by any assignable good. The disadvantages of trading in companies are so great and obvious, that the rule is unnecessary as a check upon improvident enterprise. That it is needless as a security to strangers, dealing with such companies, we shall endeavour to establish in the following section.

VI. 1. By a simple and obvious scheme of registration, creditors of companies constituted *en commandite* would be less, or not more, obnoxious to loss and disappointment than creditors of companies constituted in the ordinary manner.

It might be enacted, That the establishment of every such partnership should be notified to the public by registration: That every original member should enter in the register—his name and description, his share or interest in the joint-stock and profits, and the extent of his intended liability: That the date of the entry should also be expressed: That if he were a partner *en commandite*, he should be held responsible *in solido*, for all engagements contracted by the company previously to the date of the entry: That every person afterwards becoming a member should also make a like entry, and should be liable, in like manner, till such entry should be made: That every outgoing partner should notify the fact by registration, and, as between himself and strangers to the company, should continue a partner till the fact should be so advertised.

If a company were thus registered, its creditors would be little exposed to loss and disappointment, though most of its members were liable to a limited extent. They

would certainly be less exposed to loss and disappointment, than if all its members were liable without limitation, but the company were unregistered. For, first, if the company were constituted *en commandite*, but were registered in the manner proposed, all or most of its members would be disclosed by the register, and their obligations, though limited, could be enforced. If all were responsible *in solido*, but the company were unregistered, most or many of its members might escape the search of its creditors, and their obligations, though unlimited in law, might yet be illusory in practice. Secondly, If the company were constituted *en commandite*, but were registered in the manner proposed, a person who thought of giving credit to the company, might learn the names and stations of its members. He could inquire into their means of answering their obligations, and could guess at the extent of the fund upon which he must rely for satisfaction. If all the members were responsible *in solido*, but the company were unregistered, most or many of its members might be unknown, and the extent of the fund upon which he must rely for satisfaction could not be conjectured. Their liability would be unbounded, but their means of answering their obligations might be placed beyond inquiry.

It may be thought that these advantages would be owing to *registration*, and not to the distinctive properties of partnerships *en commandite*;—that if a company were constituted in the ordinary manner, but each of its members were obliged to register his name, these advantages would be superadded to the advantages of unlimited liability. It must, however, be remembered, that a partner *en commandite* would lie under a strong inducement to observe the proposed enactment. For in case he neglected to observe it, he would be liable without limitation. But if a partner were responsible *in solido*, whether he registered or not, he would lie under no inducement to comply with the obligation to register, and would lie under some inducement to withhold his compliance. For in case his name were entered, he would be obvious to creditors of the company; whilst in case it were not inserted, he might chance to escape their demands. It is true that the obligation to register might be sanctioned by penalties; but it is also true that the pe-

nalties would be unpopular, and would rarely be inflicted. With regard, therefore, to companies constituted in the ordinary manner, a law directing registration would often be evaded. With regard to companies constituted *en commandite*, it would generally be observed. To borrow a concise, though not very accurate, expression, the law, as it related to the latter, *would execute itself*. As it related to the former, the law could only be enforced by the imperfect instrumentality of punishment.

It, therefore, appears to us, that creditors of a company constituted *en commandite* would be less obnoxious to loss and disappointment, than creditors of a company constituted in the ordinary manner.—They would not be more obnoxious, though the members of either company could be known with equal certainty. A person who thought of giving credit to a partnership *en commandite*, would know that most of its members were liable to a limited extent. He would, therefore, trust with greater caution than if their liability were unbounded. The limited liability of its members might limit its power of obtaining credit, but would not be injurious to its creditors.

2. In their attempts to recover their debts, claimants upon companies, constituted in the ordinary manner, are embarrassed with some of those difficulties, touching the parties to suits, which we mentioned in a foregoing section. If a company were constituted *en commandite*, no such difficulties would lie in the way of its creditors. Excepting the case of bankruptcy, the acting partner or partners would be liable, exclusively, for the debts and engagements of the body. Suits by creditors of the company would be prosecuted against one or a few, though the fund to which they might resort would be formed by the contributions of many.—In case the acting partners became bankrupt, difficulties might arise from the magnitude of the business, and from the number of debts due and owing by and to the company; but no peculiar difficulties would be presented by its peculiar constitution. The assignees in bankruptcy, or other representatives of the creditors, could recover as easily from a partner *en commandite* as from any other debtor to the joint estate. If any such partner, by any act or default, had made himself liable without limitation for all or any of

the partnership engagements, his estate might be administered in bankruptcy with those of the managing partners.

Acts of Parliament are sometimes passed, empowering companies to sue, and making them liable to be sued, by a clerk or other officer. And creditors of a company, constituted in the ordinary manner, but liable to be thus sued, would not be embarrassed with the difficulties to which we have just adverted. But its liability to be thus sued is imposed by a special enactment. Without such special enactment, these difficulties would arise; and they, therefore, constitute one of the many reasons for a change in the law of partnership.

3. We have heard it suggested, and, at first, we inclined to believe, that the abolition of the usury laws would be equivalent, or nearly equivalent, to the proposed alteration in the law of partnership.

In many respects, the lender at interest unlimited by law, and the contributor of capital *ex commandite*, would be placed in the same, or similar positions. Substantially, though not in name, the capital of the latter, as well as the capital of the former, would be advanced by way of loan. Each would be free from the labour of employing his capital productively, and would, therefore, get interest merely, instead of obtaining profit: the only difference being, that the first would contract with the borrower, or borrowers, for interest, *ex nemine*, and at so much *per centum*, upon the capital to be advanced; whilst the last would contract with the acting partner, or partners, for some larger or smaller share in the varying profits of the enterprise. In either case, the rate of the remuneration would be fixed by the contracting parties, and would, accordingly, be higher or lower, as the risk to be run by the lender or contributor appeared to be greater or less. The risk, too, of each would be limited. The capital advanced, with an arrear of interest, is all that the lender would hazard; whilst the possible loss of the partner *ex commandite* would be commensurate with the amount of his contribution.

Thus far, a loan at interest, and a loan *ex commandite*, would be tantamount. In one important particular, they would differ. In the event of the borrower's insolvency, the lender at interest might resort to the insolvent estate, in compe-

tition with his other creditors, or, perhaps, to their exclusion. In the event of his partner's insolvency, the partner *ex commandite* would not be admitted to the joint or separate estate, till every creditor of every other class had been satisfied in full\*. The other creditors of the borrower, as well as the other creditors of the acting partner, might have trusted to the whole of the ostensible means which had been at their debtor's disposition; but the lender would exhaust, or subtract from, the fund upon which they had relied for satisfaction, whilst the capital contributed by the *commanditaire* would be applied, exclusively, in payment or liquidation of their demands.

But as the other creditors of the borrower *ex commandite* would be more secure than those of the borrower at interest, so would the former command more extensive credit, in making purchases, and in other dealings with third persons. If the borrower at interest traded with a large capital, it would probably be known, or surmised, that the capital or the bulk of it had been so borrowed, and that the owner or owners, in the event of his insolvency, could resort to the estate in competition with his other creditors. (The borrower *ex commandite* would inspire as much confidence as if he traded, or were thought to trade, with capital of his own.) The apparent capital with which he traded could be compared with the contributions which were entered in the register; and if the extent of that capital tallied pretty closely with the amount of those contributions, it would be likely that the bulk of it had been advanced by the *commanditaires*, and, by consequence, was not liable to the claims of secret owners.

The abolition, therefore, of the laws against usury would not be exactly equivalent to the change in the law of partnership.

In consequence of either improvement, enterprises requiring extensive capitals, or attended with unusual hazard, would be easier of execution than at present; for by either improvement, the inducements to advance capital in aid of such enterprises would be multiplied. In either event, persons advancing funds to the managers of such enterprises would be

\* *Ante*, Sec. II. 2.

empowered, at once, to limit their possible losses, and to reserve such interest on the capitals, lent or contributed, as would compensate the risk of the investment.

So far, however, as the success of the enterprise might depend upon the credit of the manager, an enterprise to be carried on with borrowed capital would be more facilitated by the change in the law of partnership, than by the abolition of the laws against usury. To the manager himself, loans of capital *en commandite* would clearly be more advantageous than loans of capital at interest. Looking at the event of his insolvency, the risk of lending *en commandite* would exceed the risk of lending at interest; since, in that event, a lender at interest would recover a part of his loan, whilst a lender *en commandite* might lose the whole of his contribution. But the greater risk on that side would probably be counterbalanced by greater security on another. For the success of the enterprise being more probable, the insolvency of the borrower would be less likely. If the hazard, on the whole, were somewhat greater, this additional hazard would, of course, be considered in adjusting the terms of the contract.

As the evil of the law of partnership would not be completely cured by the abolition of the usury laws, so would the evil of those barbarous laws be mitigated, but not removed, by the change which we have ventured to suggest. In many cases, interest could not be taken, or could not be taken conveniently, in the form of profit. In others, a command of credit would be of little or no advantage to the borrower. In all, a loan at interest, as involving no intricate account, would be more simple, and less troublesome to the parties, than a partnership *en commandite*.

In short, the laws against usury, and the rule of the law of partnership, are needless and mischievous restraints upon the discretion of lenders and borrowers. The removal of either restriction would mitigate the evil of the other; but in order to obtain the full complement of good, both of them must be abolished.

VII. 1. It may be objected, that if partners could limit their liability at their own discretion, the inclination to adventure in joint enterprises would be strengthened. Consequently, the number of ex-

tensive partnerships would increase. Trades of almost every sort would be attempted by joint stock companies; and traders, carrying on such trades individually, or in small partnerships, would be undersold, and driven from the market, by these powerful competitors. But this process would be attended by great immediate evil to numerous individuals, and would be followed by great permanent evil to the community at large. The capitals of the traders, who were thus supplanted, would be destroyed, or diminished by the contest; and the capital of the community, which is the fund for the maintenance of the labourer, would, consequently, be diminished in the same proportion.

Futile as this objection is, it would certainly be opposed by very grave and authoritative men to the proposed alteration of the law. In the course of the discussions, public and private, oral and in print, which arose out of the recent multiplication of joint stock companies, it was assumed by many, that the evils here supposed were not sufficiently guarded against by the existing law of partnership. It was repeatedly predicted, from high places as well as from low places, in parliament, and from the bench, as well as in pamphlets and newspapers, that if some check, more effectual than the bubble act, were not put by the legislature upon the increase of joint stock companies, they would surely intrude themselves into every trade, underselling their solitary competitors, and driving them from the market with the loss of the whole, or the greater portion of their capitals. By the more eloquent and absurd of these talkers and writers, hard names of all sorts were lavished upon such companies. They were denounced as "combinations," "confederacies," "conspiracies," formed by numerous and powerful bodies of men against the fair and honest industry of individual dealers. A joint stock company, opposed to a solitary trader, was rhetorically compared to a giant overwhelming a dwarf: and the legislature was implored to rescue "individual industry," from such unequal and ruinous competition.—For these reasons, we have stated the objection distinctly, and shall give it a distinct answer, although the answer is implied in an earlier part of our essay.

At the long run, the price of a commodity is just sufficient to repay the cost of producing it, and to yield a profit, at the mean or average rate, on the capital expended in its production. No often as its price is more than sufficient to satisfy these two conditions, the profits on the capitals engaged in its production are above the average rate. Capital, therefore, is turned to the trade from less profitable employments; more of the commodity is brought into the market; and its price is brought down to the lowest point at which it can permanently be produced. So often as its price is not sufficient to satisfy these two conditions, the actual traders are trading at a loss, or the profits on their capitals are below the average rate. Capital, therefore, is turned from the trade, or is applied to it in diminished quantities; less of the commodity is brought into the market; and its price is raised to the point at which it is practicable to produce it. With the causes which determine the average rate of profit, we have no concern. It is enough for our present purpose, that the price of a commodity, at the long run, is just sufficient to cover the cost of producing it, and to yield a profit, at this average rate, on the capital expended in its production\*.

When a joint stock company is projected, the profits of the individual traders, engaged in the trade in which it is proposed to adventure, are above, or on a level with, or below this average rate. If their profits be on a level with, or below the average rate, the projected company could not undersell them, making a profit on its capital at that average rate, unless it could produce the commodity at a smaller cost. This is so clear that it hardly admits of proof.

Now the projected company is to embark its capital in raising raw produce, or in some manufacture, or in mere buying and selling. On any of these suppositions, it may happen, that the most efficient instruments of production, or the most economical division of labour, which

it is possible to introduce into the trade, are beyond the reach of a small, or of a moderate, capital. If this be the case, the projected company, which would command a large capital, could introduce either or both of these improvements, and might produce the commodity at a diminished cost. If the best instruments of production, and the best division of labour, which the trade will admit of, be within the reach of a small, or of a moderate, capital, they have been, or would be, introduced by individual traders; and these individual traders could produce the commodity at a smaller cost than the company. For the company, by the supposition, would derive no peculiar advantages from its large capital, whilst it would produce the commodity under the peculiar disadvantages of trading with that large capital in an extensive partnership.

It has hitherto been supposed that the projected Company could not diminish the cost of producing the commodity, unless it could introduce more efficient instruments of production, or a more economical division of labour. And very generally speaking, this is true: though cases may be imagined, in which its larger capital might enable it to reduce the cost, without the introduction of either of these improvements. This would be less unlikely to happen, if its capital were embarked in raising raw produce. By an outlay of capital, such as no individual could support, it might open sources of raw produce (as, for instance, veins of lead, copper, or other metal) more fertile, but less accessible, than any that were actually resorted to: and this, without improving upon the usual instruments of production, or upon the established distribution of employments. In the actual state of knowledge, it might be impossible to improve the ordinary methods of production; and yet new and more fertile sources of raw produce might be laid open by those methods, if they were applied with a degree of persistence which none but a large capital could sustain. To the present purpose, however, the manner in which the projected company might diminish the cost of production, is of no importance. In every imaginable case, though the cost might be diminished, on the one hand, by certain peculiar advantages which the company might derive from its large capital, it would certainly be enhanced, on the other, by the pecu-

\* This must, of course, be taken with limitations. It will not apply to a commodity which is sold under a monopoly. It will not apply to a commodity which can only be produced in definite quantities. If part of a commodity yield rent, it will only apply to that part of it which is produced at the greatest cost. For the present purpose, however, rent may be considered, without inconvenience, as entering into the cost of production.

liar disadvantages to which the company would be subject in trading with that large capital in an extensive partnership.

From what has been premised, these consequences immediately follow. When the company is projected, the actual profits of the individual traders may be on a level with, or below, the average rate. In order to undersell them, making a profit on its capital at that average rate, the company, on either supposition, must diminish the actual cost of producing the commodity. On the first supposition, it must diminish this cost to such an extent, as to compensate for the intended reduction of the actual price: on the second, to such an extent, as not only to compensate for this intended reduction of price, but also to cover the difference between the average rate of profit, and the actual profits of the individual traders who are already engaged in the trade. If the profits of the individual traders, when the company is projected, be above the average rate, the efficient demand for the commodity is not adequately met by the actual supply; and these individual traders enjoy, for the time, what may be called, by analogy, a monopoly: In which case, additional capital would be turned to the production of the commodity, till its price were brought down to the lowest point at which it could permanently be produced. But, in producing the commodity, the company would derive peculiar advantages from its large capital, or it would not. If it would not, additional capital would be turned to the production of the commodity, by some of the individuals already engaged in producing it, or by other individuals, whom the extraordinary profits of the trade would tempt to compete with the former. For in the case supposed, individual traders could undersell the company, and would have nothing to apprehend from its competition. At the outset, therefore, and for a very short time after, it might possibly undersell its individual competitors, and make a profit on its capital at the average rate, but it would speedily be reduced to compete, in a market adequately supplied, with rivals who could produce the commodity at a smaller cost than itself.

The result of the analysis is, that the projected company could not undersell the solitary trader, making a profit on its capital at the average rate, unless it could produce the commodity at a smaller cost. Consequently, it is only in those cases, in

which the cost of a commodity, as produced by a large capital, would be less than the cost of it, as produced by a small one, that joint stock companies will probably be set on foot in opposition to individual traders. But in all those cases, the establishment of such companies is not less advantageous to the community at large than to the members of these smaller societies. In consequence of their establishment, the commodities, which they undertake to provide, are produced in the previous quantities with less labour and capital; or, with the previous quantities of labour and capital, more of these commodities is produced. In either event, the labour and capital of the community are more productive; or, to vary the expression, the sum of its commodities is increased.

But if its labour and capital become more productive, its capital will accumulate more rapidly: for all capital is saved from the product of labour, originally, and from the joint product of labour and capital, permanently; and the larger the product from which savings are made, the larger will the savings be. Consequently, the general and ultimate effect of the establishment of joint stock companies, is, not to diminish, but to enlarge, the capital of the community.

It may still be urged, that the capital of the individual trader, whom a joint stock company supplants, is diminished or destroyed by the competition, though the establishment of the company be advantageous to the community at-large. But a total or partial destruction of the capitals engaged in producing it, is a necessary consequence of every contrivance for lessening the cost of a commodity, whether it be introduced by individuals or by companies. By the introduction, for instance, of more efficient machinery, the old impotent machinery is rendered useless, and its owners must adopt the improvement, or withdraw from the trade. If the loss which individual traders would thus sustain be a good objection to the establishment of joint stock companies, it is also a good objection to every improvement in agriculture, manufactures, or commerce; to every advance which has been, or can be, made, in the progress from rudeness to refinement.

2. It has been further objected to joint stock companies, that they enhance the price of commodities; or, in the vulgar language of the objectors, that such companies are monopolies. The answer

to this objection is implied in our answer to the preceding one. For, if individual industry will not probably be disturbed by the intrusion of joint stock companies, unless they can produce at a smaller cost, it follows that the effect of their establishment is to diminish the price of commodities. But since the objection has been confidently urged by men of pretension and weight, we think it not unworthy of a more particular refutation.

A monopoly, properly so called, is an exclusive right of selling; and since its usual effect is to raise the price of the commodity above the lowest price at which it might be produced, a trader who sells his commodity for more than that lowest price, is said, by analogy, to enjoy a monopoly, though subject to unlimited competition. But a joint stock company, of the nature contemplated by the objectors, is subject to unlimited competition, and, therefore, has no monopoly, properly so called. That it could never acquire and maintain a monopoly, in the improper acceptation of the term, may be made manifest without many words.

In producing the commodity, it derives peculiar advantages from its large capital, or it does not. On the first supposition, it can undersell its individual competitors. On the second supposition, it cannot make a profit at the average rate, unless it can raise the price to such a degree as to compensate for the peculiar disadvantages of trading in an extensive partnership. But this is impossible; since the consumers can resort to individual traders, who produce the commodity at a smaller cost than the company. The company, therefore, obtains the command of the market, by lessening the cost and lowering the price of the commodity, or it is driven from the market by the smaller cost and lower price at which the commodity is produced and sold by its competitors. In either event, the commodity is sold for the lowest price at which it is practicable to produce it. More briefly, there is no monopoly.

It has, however, been supposed, that a company might persist in trading at a loss, till the capitals of its competitors were exhausted; and having thus obtained the exclusive command of the market, might take ample compensation for the capital which it had sunk, by raising the price of the commodity at its own discretion. In the language imputed to Lord

Eldon, "the company might undersell till all competitors were driven out of the market, and then do as it pleased."

Assuming that a company could thus obtain the exclusive command of the market, it could only obtain it by sinking a portion of its capital. Therefore it might be questioned by each of the projecting adventurers, whether he could not make more, by a profit at the average rate on his entire capital, than by any amount of extraordinary profits which he could thus derive from the remnant. If he could, there would be no inducement to adventure in the joint enterprise, and the company would not be established. But a company could not obtain the exclusive command of the market in the manner imagined. For so soon as it raised the price above the lowest point at which the commodity might be produced, it would be encountered by fresh competitors, whom it must also undersell, and drive from the market; and so on, without end. Consequently, a joint stock company will never acquire and maintain the exclusive command of the market, unless it produce at a smaller cost, and sell at a lower price, than any who are at liberty to compete with it. To adopt a just, though epigrammatic, remark of Lord Liverpool, a company may establish a monopoly, but it will be a monopoly in favour of the public.

VIII. The arguments which we have urged against the rule of the Law of Partnership may be applied, with some variations, to the provisions of the Bubble Act. Speaking generally, and with a view to lasting results, joint stock companies will not be projected or established, unless the joint undertakings be advantageous to the adventurers and the public. Fictitious obstacles to the formation of such companies are, therefore, needless and pernicious.—To insist at length upon the inexpediency of these provisions were useless as well as tedious. The act is now repealed; and it will hardly be replaced by an act of a similar tendency.

Lord Eldon, indeed, is said to have declared that the acts prohibited by the statute are offences at common law. We incline, however, to hope that his lordship has been misrepresented.

That the statute was unintelligible—that the ends at which it aimed were unknown and unknowable—that it no where defined the acts which it denounced a



offences—has been stated distinctly by the present Attorney-General, and may be gathered from the various cases in which it has been attempted to enforce it. Whether the assuming to act as a corporate body was in itself an offence? or whether such assumption were not an offence, unless the project were pernicious? what it was that amounted to such assumption? and how a pernicious was to be distinguished from an innocent project? are only a few of the doubts which have been suggested by this statute, and which the courts of justice have found it impossible to resolve.

If the acts prohibited by the statute be offences at common law, the people of this country are obnoxious to penalties, and are left in ignorance of the conduct by which the penalties may be incurred.

IX. If the change which we have suggested were made in the law of partnership, applications for charters or acts of parliament would be less frequent than at present. By the general law, as thus modified, the members of a joint stock company could limit their liability to creditors; whilst the body could sue and be sued effectually and with ease: And these, or some of them, are the very purposes for which such applications are frequently made by parties to joint undertakings.

But though these purposes were fully provided for by a change in the general law, applications for acts of parliament would often be necessary. If the purpose contemplated by the parties be inconsistent with the rights of others, the purpose, it is obvious, cannot be accomplished, unless the obstacle be removed by the special interposition of the legislature.

In every case of the kind, the legislature, though poorly qualified for the task, inquires, or ought to inquire, into the merits of the projected enterprise. For in order to determine the expediency of granting or refusing the application, it must compare the good which the project might produce, with the evil of infringing upon the rights which lie in the way of its execution.

To suggest improvements upon the imperfect method in which such inquiries are now conducted, and to ascertain the principles by which they ought to be guided, was amongst the purposes which we contemplated when we entered upon

the present article. The matter, however, is so extensive that we must postpone the consideration of it to some future opportunity. Strictly speaking, too, it forms no part of our proper subject. Individual as well as joint enterprises may need the aid of the legislature, though its assistance is more frequently applied for by parties to joint undertakings.

### *Law of Merchant and Factor.*

FIFTY years hence, it will perhaps be scarcely credited, that up to the year 1825, an English factor to whom the law allowed the power of *selling*, unqualifiedly, goods consigned to him by his principal, was prohibited by that same law from exercising the qualified power of *pledging* the goods upon the faith of the bill of lading. If having sold them, he ran away with his principal's money, the principal had no claim against the vendor; but if he ran away, having pledged them on the faith of the bill of lading, even without notice of the existence of a principal, the principal might recover his goods from the pledgee, without paying the money which had been advanced.

Notwithstanding this rule has been acted on ever since the case of *Pateron v. Tash*, (2 Strange 1178. 16th Geo. II.) the merchants seem to have thought it impossible that such a rule should have been laid down, or at all events, that it should have been persisted in: they knew that the rules of common law are established by decided cases; they knew that decided cases are often overruled; and they must have expected that sooner or later the decision in *Pateron v. Tash* would have been abandoned: for during the last seventy years there has not been a more fruitful source of obstinate and expensive litigation than the transactions of factors who have pledged goods upon the faith of the bill of lading. The courts, however, adhered to their rule, although Lord Ellenborough and Mr. Justice Le Blanc disapproved of it. Chief Justice Best, in an able judgment, evincing clear and comprehensive views of the subject, said,

“Had I authority to alter the law, as the mode of carrying on commerce has altered, I would say that, when the owner of property conceals himself, whoever can prove a good title under the person whom the concealed owner

permits to hold it, should retain that property against the owner;—but this is not yet the law of England. Possession is not proof of property. Our ancestors kept their goods in their own possession. If agents were employed by them to deal with their property, they did not keep themselves out of view, and the extent of the authority of the agent was so well known, that no one dealing with those agents could be imposed upon. But as little credit was given, and as men could not trade beyond their capital, they were seldom reduced to the necessity of pledging their stock in trade. The sales of merchandise were made in market overt, and if the buyers conducted themselves honestly, the law protected them from suffering by purchasing in market overt property that did not belong to the person of whom they bought. This exception in our law proves that if a person acquires the possession of property in any mode, other than that of sale in market overt, he cannot keep it against the owner; it proves at the same time, that, as commerce is now carried on, the purchaser or pawnee should have the same protection, against him who permits another to deal with his property as if it were his own. But a small proportion of the merchandise that is now brought to sale, is sold in market overt. The law relative to sales in market overt, affords, therefore, but little protection to those who are engaged in commerce.

The owners of goods for many reasons keep themselves concealed, and put forward brokers to act for unknown principals. If such brokers abuse their trust, those who have trusted them should suffer\*.”

But as the law stood, if the pawner of goods had no authority to pledge them on the faith of the bill of lading, the pawnee could not hold them against the owner.

The practice of pledging on the faith of the bill of lading is a matter of convenience and often of necessity, whether the consignee be factor or absolute owner. Before the consignee can obtain his goods he has often heavy charges to pay for freight, wharfage, &c.;—at the time the goods arrive, the market may be low, and he cannot sell except at a loss; in three months it may rise; he may at the moment be destitute of other resources, and how is he to pay the charges and wait the turn in the market, except by pledging the bill of lading? But the money lender, as the law stood, would not be justified in making an advance till he had ascertained that the party offering the goods was not a factor: and whether he were factor or absolute owner, in general the proof of this, as we shall presently show, could not be furnished except to the destruction of the adventure. The inconvenience and injustice occasioned by the rule became at length so intolerable, that the merchants of London in a body

petitioned the Legislature to declare, that any person intrusted with, and in possession of a bill of lading, should be taken to be the owner of the lading for all purposes of contract entered into on the faith of such bill, unless there was notice that he was not owner; and an act to effect this has now been passed†—passed, with the concurrence and approbation of all parties, except Mr. Scarlett, and some other lawyers out of the house.—Mr. Scarlett spoke at great length against the bill, and afterwards published his speech. His objections appear to be, in substance, That to sanction the pledge made by the factor will enable him to defraud his principal to a greater extent and with greater facility than before, and that the loss will fall on the least culpable of the conflicting claimants; the foreign merchant having fewer means of knowing his factor's character than the English money lender has of ascertaining the title to the goods offered in pledge: And further, that the money lender is not compelled to lend his money, but the foreign merchant, in order to carry on his trade, is compelled to employ a factor.

Now, if a factor who is disposed to commit a fraud, has it always in his power to sell his principal's goods and run away with the money, we cannot see how the facility for fraud, or the extent of the fraud, can be materially increased by enabling him to pledge as well as sell. Wherever he can pledge, there also he can sell, and he can always obtain more money by selling than by pledging.—If he be not allowed to pledge, lest he pledge with a view to fraud, neither ought he to be allowed to sell; and the less so, because the latter is the larger power; when he pledges, there is always a *locus poenitentiae*, and he may redeem the goods; if he sell and apply the money to his own use, there is no chance left for the principal.

It is by no means clear that the English money-lender has better opportunities of knowing the factor's character than the foreign merchant. The foreign merchant does not employ the factor till he has made due inquiry as to his respectability; he makes this inquiry, and receives his intelligence from other merchants, who, like the money-lender, live in the same town with the factor. With respect to the greater facilities which the money-lender is alleged to possess of ascertaining the

\* *Williams v. Burton*, 3 Bingh. 145. 1825.

† 6 Geo. IV. c. 94.

title to the goods offered in pledge, it is gravely urged by Mr. Scarlett, that the letters of advice respecting the cargo could be easily produced. Such a proposal is utterly inconsistent with the practice of trading. The letters of advice contain, in general at least, an account of the price given and the price expected, two facts which the seller would of course be anxious to conceal. They contain also, for the most part, notices of the state of the market in other places, the smallest hint of which is often of infinite value, if exclusively known, but that value diminishes in proportion as it is made public, because all who know it may become sharers of the advantages to be thence derived. But it is idle to dwell on the absurdity of proposing to merchants, to produce their correspondence to rivals in trade. If it be proposed to give extracts of letters, what lender would be satisfied with the fairness of the extract without seeing the original? And if it be proposed to accompany the bill of lading with a letter adapted for shew, that would be a circuitous proceeding for an end which, under the present act, may be much more simply attained.

It follows, of course, from the foregoing reasoning, that the same necessity for secrecy which precludes the factor from shewing his principal's letter of advice, will generally render it expedient for the principal to conceal his own name, and to let the factor appear to the world as owner. The very name of merchants of high reputation is enough to induce others to follow their course implicitly.

With regard to the argument that the money-lender is not under any necessity to lend his money, but that the foreign merchant is compelled, in order to carry on his trade, to employ a factor,—we trust we shall not be deemed presumptuous if we say that it does not deserve an answer. Why does the money-lender advance his money? to make a profit on it. Why does the foreign merchant consign his goods to the British factor? to make a profit on them. The money-lender might invest his money in other ways;—yes—but to less advantage, or he would not advance it to the consignee. The foreign merchant might sell his goods where they are produced;—yes—but to less advantage, or he would not consign them to the factor. There is evidently no more compulsion in the one transaction than in the other.

But, however the question may stand upon the points we have already discussed, a rule has been often laid down and approved of, that if one of two innocent persons must suffer by the fraud of a third, the loss shall fall upon him who enabled the third to commit the fraud. The law with regard to factors was an exception to this rule; for when a factor had, without authority, pledged the goods of his principal, and carried off the money, the loss fell upon the lender, who had taken the goods as his security; whereas the principal was the person who had, by trusting the goods without a qualified bill of lading, enabled the factor to hold himself out as owner, and so to commit the fraud, when he might have prevented all the mischief by adding two words to the bill of lading. Upon this principle it is that Chief Justice Best says, “where the owner of property conceals himself, whoever can prove a good title under the person whom the concealed owner permits to hold it, should retain that property against the owner.”

And upon this principle it is, according to Lord Liverpool, that the present act has passed the legislature.

But though the act gives validity to the pledging, it enables the principal to decide whether he intends his factor to have the power of pledging or not, and if not, to prevent it, by notice in the bill of lading, that his consignee is only factor.

And it is this circumstance which essentially distinguishes the case of a factor who pledges goods on the faith of a bill of lading from that of a tenant who pawns the furniture of a ready-furnished lodging, or the swindler who pawns the coach he has hired. The principal may always prevent the factor from pledging, by stating in the bill of lading that the goods are consigned to him as factor, and if he omit to do this, he in effect assists in enabling the factor to deceive the money-lender: the landlord or the letter of coaches have no such means of apprising the whole world, that the parties who have hired their goods are without authority to pledge, and it is not easy to mark either the furniture or the coach with the owner's name. Mr. Scarlett, however, by a train of reasoning which seems to imply but little acquaintance with the principles of jurisprudence, has contended that if the pledgee of goods who has advanced money to a factor, under the faith of a bill of lading,

be entitled to hold those goods against the owner till his advance be repaid, so ought the pawnbroker who has advanced money upon a gentleman's plate pawned by his servant, or upon a landlord's furniture pawned by his tenant. His argument is, that it would be "a solecism in reasoning, "to infer a greater right and power in the "holder of the mere order or authority to "receive the possession, than in the actual "possessor. To say that the custody of "the various documents, which entitled the "holder of them to receive possession of "merchandise, should be conclusive evidence of his right to transfer the property, but that the actual possession of "the merchandise itself, which was the "result and consequence of these documents, and in effect the very consummation of their object, should confer no "such right, was a manifest absurdity. "It seemed, therefore, that the necessary "consequence of this law, was to revive "the only rule of property in the first "stages of society, namely, possession\*."

Now, where there is any law of property, the events must be specified which are to invest a party with the rights of ownership. Savages may choose occupancy, but slight experience shews the inconvenience of fixing on that. The custom of merchants has, in case of a transfer of a cargo from a foreign to an English merchant, fixed on the bill of lading, whereby the foreign owner orders the goods to be delivered to the English merchant. The present act has in some degree given validity to this custom, and it is difficult to imagine any event more proper for the purpose; it is of a known formality, is executed under circumstances of deliberation, and is capable of easy and certain proof.

It has always been found in jurisprudence, that the possession of writings indicating a transfer of property, is the fittest event to invest a party with the right of ownership. Mr. Scarlett does not esteem it any solecism, that the party who possesses a parchment conveyance, by lease and release, of Abinger Farm, should exercise a greater dominion over that farm, than the tenant who is in actual occupation of it. Why then should not the possessor of a bill of lading exercise a greater dominion over the goods to which it refers, than the party who has the bare possession unaccompanied with any

writing? or why should naked possession confer a power which convention and law have said shall only be conferred by the bill of lading? By convention and law the bill of lading now constitutes as clear a title to goods, that is, a right to exercise dominion over them, as a lease and release does to exercise dominion over land. Why is it more of a solecism in the one case than in the other, that the bare possessor cannot exercise such dominion? The servant who pawns his master's plate brings no attestation of title, and the pawnbroker who advances him money stands in the same condition as a mortgagee, who, without requiring abstracts of title, should incautiously advance money on land, upon a conveyance in fee by a mere tenant for years. It is impossible, therefore, without subverting all our notions of title, to affirm that the bare possessor of goods stands, or ought to stand, in the same situation with respect to dominion over them, as he who brings written evidence, indicating a transfer to himself. It is only where money is advanced upon the faith of a bill of lading, without notice of the existence of any owner but the person named in the bill, that the new act recognizes the validity of the pledge; and it does not follow that because the law recognizes a transfer of goods, made by a person who produces some written evidence of title, it should recognize a transfer made by a person who has no such evidence to produce.

### *Combination and Combination Laws.*

It was our intention to have entered at large into this important topic; but we have been induced to suspend our undertaking for the present; partly by reason of the dissolution of the various combinations which have agitated the country during the last twelve months, and still more from the necessity we were under of trenching upon the space set apart for the consideration of this subject for the purpose of fully investigating the state of the law with respect to joint stock companies; a subject which is likely to excite considerable discussion in the ensuing session of Parliament. We must, therefore, confine ourselves to a mere outline of what we proposed to have written on the question of the Combination Laws.

The mischief of laws prohibiting combinations of workmen, is,—not that they can, to any material extent, produce an

\* *Ante*, p. 484.

effect upon wages, but that they give rise to a false and dangerous opinion, both among masters and men, that they have such an operation.

The rate of wages must, in the long run, depend on the relation between the capital of a country and its population. The whole capital of the country, with the exception of what is locked up in tools, buildings, unwrought materials, and unsold goods, constitutes the fund for the maintenance of labour. The interest of the capitalists will always insure the distribution of this whole sum among the labourers: otherwise a portion of their capitals would be lying idle.

Now, it is clearly impossible that the labourers should ever get more than the whole; therefore, if a general combination could raise wages all over the country, the capitalist could not continue to employ the whole of the labourers; they would employ a part at increased wages, and the remainder must starve, or be maintained by their comrades.

Even by a sacrifice of their property, the capitalists could not maintain the same number of labourers as before, at higher wages. They do not receive their profits till they have sold their goods. They cannot sell them till they have made them; and it is for the very purpose of making them that they want labourers. They cannot hire labourers with that which they themselves do not receive, and till the production has been completed by the agency of those labourers.

In a particular trade, indeed, it may be in the power of the workmen, by preventing other workmen from entering the trade in more than a certain number, to keep their wages above the average rate; their masters being of course indemnified in the price of the goods, which price, if the goods be of necessary consumption, they may succeed in raising for a short time. But it is evident that any such advantage, to be gained by any particular class of workmen, must be gained at the expense of the rest. If they attract to themselves a larger portion of the capital of the country, there must remain a smaller portion for the workmen in other trades. This, however, is no evil; because the increase of population would soon have reduced wages in those other trades to their lowest level; so that these partial combinations, if they can be maintained without violence, have at least the effect of saving, for

a time, a few persons from the otherwise universal depression.

As a general proposition, however, it seems to follow, from what has been said above, that unless the capital of a country increase faster than the population, wages cannot rise; and if the population increase faster than the capital, wages must fall. Suppose the capitalists of a given district to have been able, at the ordinary rate of profits, to employ, in 1800, one hundred workmen at 3s. a-day, or at any rate of wages yielding them something more than a bare subsistence:—Suppose the capital, in 1820, to have increased one-half:—if at that time the number of the workmen shall only have increased to 150, the demand for their services among the capitalists remaining the same in proportion, the rate of wages will remain the same: but suppose the number of workmen to have reached 200, the additional 50 must either starve, for want of employment, or obtain it by offering to work at a lower rate. If they obtain it at such lower rate, those who before obtained the higher rate must go out of employment or submit to receive the lower rate; for the capitalists, who, by the supposition, were gaining no more than the ordinary profits of stock, cannot afford to distribute among the 200, in the shape of wages, more than they distributed among the 150. If by law, or illegal violence, they are compelled to pay the 200 at the same rate that they paid the 150, they will cease to obtain the ordinary profits of stock; some of them will withdraw their capital to districts or occupations in which they *can* obtain the ordinary profits; and the capital in the disturbed district being reduced while the number of workmen remains the same, they must, in order to retain in the district what capital yet remains, submit to a still greater reduction of wages.

On the other hand, if, when the number of workmen had increased only one-half, the capital of the district had been suddenly doubled; or if, when the capital had increased one-half, the number of workmen had by any accident been reduced one-half, some individual capitalist would be tempted to offer an increased rate of wages in order to keep his capital employed, though perhaps at a reduced rate of profit; and the other capitalists must follow his example or lose their workmen, and with them all return for their capital.

We will now show to how small an extent, and for how short a time, combinations can affect wages in particular trades.

Suppose the journeymen tailors of a given district succeed in compelling the masters to submit to an advance of wages incompatible with the ordinary profits of stock: there is nothing in such a circumstance which can tend to increase the demand for clothes; and if the masters raise the price of the article, the demand must diminish, because fewer persons will be able to give the higher price than were able to give the lower. The advance of wages, therefore, must be deducted from the master's profits; and if by this means their profits be reduced below those of other trades, a portion of the capital employed in the tailors' trade will be transferred gradually to other trades; but though the capital employed in the tailors' trade will be thus diminished, the number of journeymen will remain the same, and in order that the capital which yet remains should produce the same profit as capital invested in other trades, it will be necessary for the journeymen to work at reduced wages, or to starve for want of employment.

In the case above supposed, the profits of the tailors' trade are assumed to have been, at first, upon a level with the profits in other trades. If they were greater, an additional quantity of capital would be determined to the tailors' trade, and that circumstance of itself would, for the reasons we have before stated, raise the rate of wages without a combination.

As for the masters—if population increase faster than capital, there can be no necessity for them to combine to lower wages; in such case, for the reasons we have before stated, wages will fall but too soon, to the lowest point to which they can fall—that which will suffice for the bare existence of the workman.

It has been said, indeed, that where the masters in a trade are few, and the combination among them is perfect, they may, by the aid of the law, repress combination among the workmen, and by dealing with them singly, reduce wages to that rate which will barely support existence, at an earlier period than the state of the population would have produced the same effect, and that they may continue wages at this rate with greater certainty, and for a greater length of time, than if the law had not assisted them. This has been asserted in particular of the type-founders, the saddlers, and the cotton-weavers. Though

we should admit the fact to be so in a few instances, and for short periods of time, it seems impossible that it should be so to any great extent, or for any considerable portion of time. If the masters, in such trades, could for any length of time depress wages below the market rate—below the proportion paid in other trades—they would obtain a greater return for their capital than the capitalists enjoyed in other trades: this could not long be kept a secret, and when known, it would attract capital from those other trades to the trades that yielded the greater return; that is, the trades in which the masters had been able to depress wages below the market rate. But as soon as fresh capital should be determined to those trades, the competition between the new capitalists and the old would infallibly raise the rate of wages. The number of workmen would remain the same; the capital employed in the trade would be suddenly increased; and if capital increase faster than population (in which case alone it is possible for wages to rise), no combination of masters can ever hold together. The temptation to employ the increased capital to the best advantage, by competing for workmen, is too strong to be resisted.

Laws, therefore, which prohibit combinations, in the apprehension that such combinations would be able to raise wages above the market price, are, to that end, for the most part, nugatory. But as the existence of such laws leads both masters and men to suppose that wages may be raised by means of combination, they have in truth a very pernicious operation: 1st. By producing and supporting an erroneous opinion, which is the more dangerous, as it leads inquiry astray from the real causes which regulate the rate of wages; 2dly, By occasioning discontent, from an appearance of partiality to the masters; and 3dly, By enfeebling the sanction of law in general.

It seems expedient, therefore, that those enactments should be repealed which interfere with any peaceable mode in which workmen may think fit to conduct themselves, with a view to contracts regarding wages; but it is equally expedient that, like all other men in society, workmen should be subject to the control of the law whenever they attempt to compass their ends by violence or intimidation; and the more so since we have already shown that a temporary success, obtained by forcible means, must, in the long run, defeat the

purpose of those who have recourse to them.

Here, then, we have a broad line of distinction: so long as the workmen are misguided enough to suppose that they can better their situation by refusing to work, and by combining for the support of those who thus quit their employment; let no interruption be offered;—the evil is one which must cure itself in a short time, and the parties combining must soon discover that it is neither the law nor the power of their employers which is the cause of their distress. But it is obviously as much to the advantage of the labourer, that he should be secured in the freest exercise of his skill and labour, as it is to that of the capitalist, that he should be secured in the possession and employment of his capital. Neither of them, however, can be said to enjoy this security if they are compelled, by intimidation, to pursue a course which they would not otherwise have pursued. Wherever, therefore, they are exposed to violence or menace, to obstruction, or any kind of molestation, the civil arm ought immediately to be interposed for their protection.

At this stage of the question arises the first difficulty—to define where combination ends and where molestation begins. But a far greater difficulty, and one which seems almost insuperable, is to find a tribunal in which such offences can be fairly and efficiently tried.

The ordinary machinery of circuit or session, would be much too slow and expensive for the suppression of mischief, which calls for immediate interference. The master manufacturers who usually compose the magistracy in the manufacturing districts, and persons who move in the same circle, have evidently a strong interest to decide in favour of the master. It may be urged indeed, that if their proceedings were public, they would act under the check of the press and public opinion; but in general, disputes between a master and his workman on a question of wages, are not subjects which the press is accustomed to handle, because they are not subjects in which the public takes any interest.

If a local jury were summoned periodically for the settling of such disputes, such jury would consist either of masters or of workmen, and in either case would have a strong bias one way.

Perhaps the least objectionable tribunal for such purposes, would be a single

professional judge established in such district, who should decide in public, and from whose decision there might be an appeal to the quarter sessions. Such an individual would not be necessarily connected to any extent with the master manufacturers, and he would incur a responsibility, and have a reputation for impartiality to maintain, which is not essential to the well-being of a master manufacturer among his fellow-masters.

Such being the state of the question, and such the difficulties of legislating on the most important branch of it, Mr. Hume, in the session of 1824, introduced an act\*, which repealed all acts prohibiting combinations of workmen for the purpose of regulating their contracts respecting wages; or for inducing workmen to depart from a service in which they were engaged,—to quit or return work before it was finished,—to refuse to enter into employment,—or to regulate the mode of carrying on business; and which declared that persons combining for these purposes should not be liable to punishment.

The same exception was extended to masters who should combine to depress wages or to regulate the mode of carrying on business.

But it was enacted, “that if any person “by violence to person or property, by “threats or by intimidation, should wil- “fully and maliciously force” any workmen to leave his service, quit or spoil his work, or destroy machinery, or use violence, threats, or intimidation towards another for not joining in combinations, or should by such means force any master manufacturer to alter his mode of carrying on business, the person so offending should be liable to imprisonment, not exceeding two months, with or without hard labour as the case might require.

The same punishment was prescribed for combining to effect such purposes by such means.

One or two justices of the peace (not being masters in any trade or manufacture, nor the fathers nor sons of masters) were to have jurisdiction to inquire into such offences and to convict on the oath of two witnesses.

This act passed in June 1824.

Shortly after the passing of the act, combinations, before in existence, were acted upon with new vigour in almost every district and every trade throughout the kingdom; not accompanied with that

destruction of machinery, and outrage upon individuals which characterised the old Luddite combinations; but with every species of minor annoyance towards the masters who refused to submit, and the workmen who refused to combine. In other respects, the combinations, though general, were characterised by less intimidation than on former occasions; and with respect to one man who was killed in Dublin, it was offered to be proved before the committee of the House of Commons, that his death was not occasioned by the combination. In Liverpool where there had been many and long continued strikes, accompanied by most atrocious conduct and many murders, the combinations, since the repeal, have been perfectly tranquil. The Glasgow strike was not the strike of the men, but of the masters; and the conduct of the men was less violent than on any former occasion. Even the seamen at Newcastle, though three or four of them were shot, were less outrageous than they had ever been in former combinations. In the great strike of the stocking makers, which was only a repetition of that of 1823, no act was committed which called for punishment. As to oaths of a dangerous tendency which had formerly been extensively administered, no sooner was the act repealed than notice was given among those who had been bound by oaths, that oaths were at an end, and that the leaders of the union would denounce any who either gave or took oaths.

Whether these combinations were occasioned by an increased demand for labour, which about that time certainly took place in almost every species of employment, or by a misapprehension of the terms of the act of 1824, it is not now material to inquire, because the combinations have nearly all subsided without any extraordinary intervention of the civil power, and it is probable, that many of those who were engaged in them, have at length discovered their error.

It will not be denied, however, that in many instances they had assumed a very alarming appearance, and it will probably be admitted by all reflecting persons, that every attempt to compass the ends of such combinations by acts of molestation and petty annoyance, ought to be instantly repressed as violence and intimidation: for it is obvious, that by a system of petty annoyance, life may be rendered even more intolerable, than by open and immediate outrage.

The ministers, of the Crown, seem to have conceived, that the word "intimidation" in Mr. Hume's statute, would extend only to such acts as excite fears for personal safety, and that acts of minor annoyance not productive of apprehensions on the score of personal safety, would not be holden to be acts of intimidation.

It is possible the courts might have so construed the statute, though in general it would be thought, that a man acted equally under intimidation, whether he were induced to do what he disliked, or not to do what he liked, from fear of personal violence, or from fear of grievous discomfort. However, to exclude all doubts, Mr. Wallace, last session, brought in a bill to repeal the act of 1824.

This bill also repeals all the acts which prohibit combinations of workmen, for the purpose of regulating their contracts respecting wages.

It further declares that no persons shall be liable to prosecution or penalty, who shall meet together for the sole purpose of consulting upon, and determining the rate of wages which such persons shall demand for their work, or the hours for which they shall work, or who shall enter into any agreement among themselves, for the purpose of fixing the rate of wages or hours during which they shall work.

There is a like declaration as to meetings of masters to regulate wages of journeymen.

It then provides, that "if any person shall by violence to person or property, or by threats or intimidation, or by means tending or in any way obstructing another, force or endeavour to force" any workman to leave his employment, or return work unfinished, or prevent him from hiring himself; or shall use the above means to force any workman to belong to clubs, or to pay fines for not having complied with regulations respecting wages; or shall use such means to force any manufacturer to alter his mode of carrying on business;—the offender shall be imprisoned for any time not exceeding three months, with or without hard labour according to circumstances.

One or two justices of the peace, not being master manufacturers in the trade in which the offence is committed, have jurisdiction to proceed against such offender, and to convict on the oath of one or more witnesses; but they must file the conviction at the quarter-sessions, to which the party convicted has an appeal, and the



information must be laid within six months after the offence.

These two latter provisions were added by the Attorney General, and the bill passed in July.

The second act differs so slightly from the first, that it is difficult to account for the acrimony with which the debates on it were conducted. One cannot see why the advocates of the second act should have attacked Mr. Hume with such asperity, nor why those who voted for the first act should so strenuously have opposed the second. The difference between two and three months imprisonment can scarcely be esteemed very material. Judges from the same trade as the offender, are still excluded; and the difference between having them from masters in other trades, or from persons who associate with masters in other trades, seems to us not likely to affect the workman to any assignable extent; but even if the difference were considerable, it seems to us to be more than compensated by the appeal to the quarter-sessions, and the limitation of the prosecution to six months, neither of which provisions are contained in the former act.

As to the permitting a conviction to take place on the oath of one witness, it is absolutely necessary for the purposes of justice. The more aggravated the offence, the less likely is the offender to commit it in the presence of many witnesses; the testimony of one man of character is at least as satisfactory as that of a cloud of ordinary witnesses; and if the single witness be of bad character, it is not compulsory on the magistrate to believe his oath.

In fact the only substantial alteration in the second act, is the making persons answerable for obstruction and molestation, as well as for violence and intimidation.

That they ought to be so answerable, we have already shewn, and the only question remaining is, whether it should be left to the magistrate to determine what shall be deemed obstruction and molestation, or whether the act should enumerate every possible act of molestation that can be imagined.

It seems to us that the words are sufficiently general to include every possible act of the kind that could be imagined or enumerated, and sufficiently precise to restrain the magistrate from punishing for any act which it was not the intention of the legislature to visit with punishment. Let the law be framed in what language

it may, considerable discretion must always be left in the hands of those who carry it into execution, and the mischief of attempting to particularize all the acts which the legislature proposes to prohibit, is, that all the books which the world could hold, could not contain them,—that all the imaginations that ever imagined could never imagine them,—and that if one act only were omitted in the catalogue, the careful particularization of all the others would lead to the inference that that one had been omitted designedly. For the purpose therefore of precision as well as of brevity and clearness, it is absolutely necessary that the legislator should speak in the general terms appropriate to the subject of which he is treating.

#### LAW.

#### *Courts at Westminster.*

THE building of these courts has furnished a striking instance of that want of consideration for the pockets and conveniences of the people, which must always exist where they have no immediate check over their government. Our readers will recollect that about five years ago, the principal courts of justice were pulled down, to make room for the coronation dinner. However, to all who have business to transact in those courts, the annoyance occasioned by their being at a distance from each other, is so great, that it was hoped they would soon be restored to Westminster Hall. The quantity of building requisite was not great, and it was remembered that the largest theatres had been reconstructed, for the purpose of mere amusement, within three months after their destruction by fire. Five years, however, have now elapsed (December 1825), and the Court of King's Bench is still relegated to the Sessions House, Westminster, the Court of Chancery to the precincts of Lincoln's Inn. Such is the speed at which public affairs travel in comparison with private. Next for a comparison of the expense. The new Court of King's Bench, adjoining Westminster Hall, was no sooner erected than certain gentlemen of taste denounced it in the House of Commons as an outrage upon what is called good taste in building. The matter was referred to a committee: by order of that committee, the nearly completed edifice was pulled down, in order to be recommenced, and stones which had cost ten shillings and expense

a foot in the erection, were sold, as we have been informed, at a shilling and at sixpence a foot, as old materials, upon the destruction of the building. After all this outlay upon the appearance, it might have been expected that some little attention would have been paid to the convenience of the structure. Instead of this, upon its second resurrection, it was found so small, and so little adapted to the purposes to which it was destined, that Mr. Scarlett made a public complaint, and threatened to make a motion on the subject in parliament. The chancellor of the Exchequer promised to investigate the matter himself, and to make the best arrangement he could. The architect, it seems, who had been employed in the business, had made a very natural blunder, which admitted, however, of a cheap and easy remedy. In taking his survey of the old courts, for the purpose of constructing new ones, he perceived that the Court of Exchequer occupied the greatest space, and not adverting to the fact, that that court is almost destitute of suitors, while neither time nor space sufficient can be found for those who throng the King's Bench, he determined to make the new Exchequer, like the old, the largest of all the courts. In order to effect this, he was obliged to encroach on the site destined for the King's Bench, which was rendered, in consequence, so small and inadequate to its purpose as to call for Mr. Scarlett's complaint. The evil might have easily and cheaply have been remedied, if the architect, even then, would have assigned to the Exchequer the site appropriated to the King's Bench, and to the King's Bench the site appropriated to the Exchequer. Instead of this, he chose, as we have been informed, to pull down the interior of the King's Bench, a second time, and rebuild it a third. What the erection of the court has cost altogether, under these circumstances, and what has been the architect's per centage upon the expence, it is impossible for us to guess; but the court is, after all, dark, contracted, and inconvenient, to a degree scarcely credible by those who have not seen it. No separate approach for witnesses;—no separate approach for jurors; all who have business to transact, must fight their way through the crowd of persons who cover the floor at the two sides of the court. The whole space is so contracted for the numbers who have to breathe in it,

that in cold weather the most fetid air must be inhaled a thousand times over, or the persons present be exposed to draughts and intolerable cold.

We are satisfied that it will be difficult to carry on in this edifice the business of the chief tribunal in the land, and we trust some competent person will bring the subject before parliament early in the next session. The facts we have stated speak for themselves, and require no comment from us; we believe they cannot be denied or varied in substance.

We ought not to omit stating, that in the construction of the new Court of King's Bench, there is one good feature which has never existed in any of its predecessors—a gallery for the accommodation of the public. It will hold from 60 to 90 persons, who may see and hear all that passes; and are at the same time so placed, as to offer no obstruction to the business of the court.

The importance of publicity, as a sanction for judicial integrity: the importance of familiarizing the people with the business of courts of justice; the convenience of finding a place for suitors and witnesses, whose turn is next on the list, are matters which have hitherto been strangely forgotten, in most of our metropolitan courts. Scarcely any of them afford any accommodation except for "gentlemen of the bar," and it is no small palliation of all the errors of the present architect, that he seems to have been the first who has had any consideration for the public. When we consider the instruction which may be obtained in our courts of justice, and the interest which every man has in learning whenever he can the latest exposition of that oral law which is said to reside in the judge's breast, it is obvious that the size of our principal courts of justice ought only to be limited by the space within which an ordinary speaker can conveniently be heard throughout. In the instance of the Opera House, it has been ascertained how ample a scope may be given, provided a building be constructed with any due regard to the principles of acoustics. There are, also, many provincial courts, from which our London architects might do well to take a lesson. In the West alone, at Winchester, Dorchester, Exeter, Bridgewater, Taunton, Wells, there is excellent accommodation, with seats for many hundred spectators; they have

separate passages to approach their station, and are so placed as not in the least to interfere with the dispatch of business.

We would also suggest, as a great improvement, the propriety of placing all the courts of justice in or near Lincoln's Inn Fields. The time lost, and the expense occasioned by daily journeys to Westminster Hall, so far from the centre of all ordinary, as well as juridical business, is a serious and useless tax upon the profession and the public. We fear, however, we shall have few to support us in this proposal. The *prestige* of antiquity operates so powerfully upon mankind in general, that there are few who would sacrifice, even to their daily convenience, the superstition which attaches them to a Gothic building.

### *Salaries of the Judges and Police Magistrates.*

As we approve, in the main, of the increase which has been made in the judges' salaries, it might be deemed superfluous on our parts to enter into any detailed exposition of the principles which ought to regulate the payment of public functionaries; but the importance of the subject, and the high respect we entertain for many of those who differ from us, demand at our hands something like an examination of the question.

The subject must be considered under two heads; the *mode* of payment and the *amount*; but the *mode* of payment involves by far the more difficult branch of the question.

As a general principle it may be assumed that the mode of payment ought, if possible, to be such as to make the interest of the functionary coincide with his duty; the application, however, of this principle in the present state of our judicial establishment, is by no means easy. Give a judge a fixed annual salary, and, like all other functionaries paid in the same manner, secure of his stipend at all events, he has an obvious interest in abridging the discharge of his duty: pay him by fees on each suit, and he has an interest as decisive in the number and protraction of suits: on the other hand, let him receive a ticket for each day's attendance, and let the amount of his salary at the quarter's end depend upon the number of tickets he can produce; instead of taking his daily station with listlessness or disgust, and looking about

to find excuses for occasional absence, he might mount the bench with a feeling of pleasure, and carefully avoid all motives for non-attendance. But a contrivance of this nature is almost superfluous where, as in the Court of King's bench, the pressure of business is such as to compel an attendance as close as human strength can bear; and perhaps the check of constant publicity may be sufficient to insure an adequate discharge of duty, notwithstanding the functionary be paid by a fixed salary.

Be this as it may, the mode of paying a judge by fees on each suit or stage of a suit, or by the patronage of offices which are supported by similar fees, is clearly the worst that could be devised. It gives him an interest (almost irresistible) in the number and protraction of suits: it gives him an interest in overlooking the extortion and other misconduct of his subordinates—for if they have purchased their places it would be a kind of breach of contract to prevent them from profiting to the utmost—if they have received them gratuitously, they are generally friends or acquaintances, whom he would be loth to expose; it weakens the sanction of law in general, by inviting imputations on the integrity of those who are employed in the administration of justice: but above all by raising the price of justice, and virtually closing the doors of the court against the great mass of the community, it operates as a premium upon injustice, and as far as the absence of law can contribute to so sad a result, tends directly to the demoralization of society at large.

Upon whatever grounds, therefore, or from whatever motives the change may have been produced, we rejoice in the abolition of this mode of payment. It is at least one step towards a better distribution of justice.

But with a view to elucidate the nature of our system of government, it is curious and instructive to examine the reasons assigned for the alteration in question. In the view of those who think that the object of all government ought to be the greatest happiness of the *greatest number*, the paramount objection to paying judges or their officers by fees, is the consequent denial of justice to millions who are unable to pay the fees, and the torments occasioned by the success of injustice. Mr. Robinson, one of the ablest and most upright ministers this country has ever had, one who has already done more good than all

his predecessors put together, assigns three reasons for altering this mode of payment\*.

1. "The sale of offices by judges does not tend to add any thing to the dignity of their judicial character." 2. "The emolument derived from the practice is uncertain: a man may come to the Chief Justiceship at an advanced period of life, and find all the offices of which he has the disposal filled by persons younger than himself." 3. "The receipt of fees by the judges is wholly unbecoming their situation: it might happen that a suitor might refuse to pay his fees, and it might be absolutely necessary for the judge to take steps to enforce payment, or forfeit that from which a portion of his income was derived: this, it must be admitted, was placing the learned person in a painful and delicate situation."

The only motive assigned for the measure in hand, is sympathy for the twelve learned persons receivers of the fees, who may occasionally be placed in a painful and delicate situation, and for the two learned persons whose emoluments are uncertain. But the misery and deprivation occasioned to twelve millions of people, the payers, by the exaction of these fees, entirely escape the right honourable gentleman's observation. "With the fees themselves he does not propose to deal; they will be collected, as heretofore, by the present officers, and paid into the Exchequer, to form a fund, out of which, part of the increased expences of the new arrangement may be defrayed\*." So that the judges are still, in effect, to be paid by fees! But like the gentlemen of the bar, instead of receiving them at once from the dirty hands of the client, their dignity is to be appeased by the double strainer of attorney and clerk.

Money can readily enough be appropriated to the erection (*repair*, it is called) of a palace for the great person who appoints the minister; to the building of museums and the purchase of collections of pictures appreciable only by the class in which the minister lives. But money for the payment of judges?—No! Although the provision for all of them would not exceed the income of an Irish Arch-bishop, the fund must be wrung from the hands of miserable suitors already smarting under the torments of injustice. Aye, and if it cannot be wrung where it

does not exist, justice must be denied, and injustice prevail. The rt. hon. gent. supposes the case of a suitor refusing to pay his fees; but there are thousands unable to pay them. The rt. hon. gent. supposes that a judge might be placed in a painful and delicate situation if he were to attempt to enforce payment under such circumstances. No less than fifty-two officers of justice are actually placed in this delicate situation four times in every year:—The clerks or deputy clerks of the peace of each county:—but as they are in a lower sphere than the judges,—commonly attorneys,—their sensations are not sufficiently acute to have excited the attention of the Legislature.—The matter stands thus: every person who is charged at the Quarter Sessions with a misdemeanor, such as a common assault, or the like, is required, as a condition precedent to taking his trial, to pay to the clerk of the peace a fee or fees amounting to about 3l. 16s. 4d. The defendant may be altogether innocent of the charge alleged against him; he may be, and often is, utterly destitute of money;—no matter; he must pay the fee in order to enter on his defence, or in default of payment be committed to prison or find sureties till the next Quarter Sessions, and so on till he procures the money. And yet this is what the opulent, the vulgar, the ignorant, and Blackstone, call an equal administration of justice.

But to return. During three or four centuries, so long as the people, brutal and uninstructed, were either ignorant or regardless of this exaction of fees for the payment of the judges; so long as the judges could receive them without remark or inconvenience; so long the legislature is quiescent;—The people open their eyes and read, an active press calls attention to the subject, and the judges, the objects of painful remark, complain of being the instruments of these impolitic exactions. The judges are instantly relieved from their "painful and delicate situation," from the possibility of a little sentimental suffering;—but the people, who in comparison with the judges, substantially suffer in the proportion of one million to one, are left to endure their sufferings as they may. However, we do not despair: let the people read a little more; let them think a little more, and above all, let them cease to degrade and brutalize themselves by increasing their numbers beyond the

\* *Ante*, pp. 477, 478.

amount at which capitalists must compete for workmen instead of workmen competing for employment, and they may still hope to enforce a juster view of the ends of government. In these observations we are far from imputing to the Chancellor of the Exchequer any intention to overlook or oppress the great body of the people: we set out by stating that the view we have taken of the subject had probably escaped his observation: we are satisfied that he possesses more integrity and a greater disposition to do good than any of his predecessors; and we confidently expect that when an evil is clearly pointed out he will not be slow in attempting to remove it; but we charge him in common with all his class, in thinking, feeling, and acting chiefly for gentlemen, and in losing sight to a great degree, of the great mass of mankind. This failing, this contraction of legislative views, is the almost unavoidable result of the education and habits of men of rank: their apartments look out from the Corinthian capitals of society; they see only the loftier trees which surround the building, and forget the grass and bushes below. Such a failing might be of no importance in former times, when the great mass of the community were too ignorant to know, and too feeble to enforce their own claims; but the legislator who would succeed in a country where education and political intelligence are widely diffused, where mechanics' institutions start up in every town, and newspapers are read in every village, must expand his views and endeavour equally to promote the interests of all.

We come now to the *amount* of the salaries. It will probably be conceded, even by those who think the new scale too high, that the services of public functionaries ought to be paid for on the same principle as any merchantable commodity; namely, at the lowest price at which the best of its kind can be obtained. The public is made up of individuals, and this is the rule which every prudent individual pursues without scruple.

The sum now fixed for the nine puisne judges is 5,500*l.* a-year, during actual service, and 2,800 for pensions of retreat. Whatever might be the case under a different system of jurisprudence, or a different organization of the judicial establishment, we do not think, under the existing system, that the services of the most competent individuals, could be

obtained for a less sum. This is obviously rather a guess, than an opinion formed from facts; for the experiments which might have furnished the materials for a decisive opinion, have rarely indeed been made. Of course the Chancellor of the Exchequer for the time being, and the Secretary of State for the Home Department, are under a kind of moral compulsion to affirm that the appointments sanctioned by them or their predecessors, were the best possible that circumstances admitted; that they have been occasioned by nothing but a desire for the public good; that the existing judges, like all existing public functionaries, are the most active, the most acute, the most learned that ever were seen, in short, the very perfection of judges; but we, who are under no such compulsion, may perhaps be permitted to form a different estimate.

The qualities mainly desirable in a judge, are a vigorous and logical intellect, accurate knowledge of the law, and a constitution unimpaired by age; but appointments of men possessing such qualities, have been rare in the extreme, and if those in whom the power of nomination is vested, have not been actuated by motives of personal favour, they seem to have esteemed age, feebleness, or bigotry as the best recommendations for office. In more than one instance, judges have been made upon compassion. A man of very ordinary capacity and attainments, has through the favour of attorneys or friends, or the imposture of a grave demeanour, enjoyed a certain portion of professional emolument: on a sudden he is shouldered out of practice by younger, and more able competitors: a chancellor, the friend and companion of his youth, in order to extricate him from the mortification of sitting at the table of the court, with an empty brief-bag and sour visage, causes him to be made a judge. The misery he would have experienced through his declining years, is, certainly, thus avoided; but in lieu of it, a mass of misery is created a thousand fold greater. The new Rhadamanthus, elate with the dignity of his office (for other dignity he possesses none), struts his brief hour, reprimands under-sheriffs, fines javelin-men, and resolutely enforces silence; but as for enforcing or applying law, he is as little competent to the task as the javelin-men he has fined; his head is a confused medley of shreds and

patches of cases, chiefly those in which he has himself been engaged, and which, on all occasions, he cites and misapplies; general principles he is incapable of comprehending, and still more incapable of applying, and in every quarter, by misdecision, and misdirection, he aggravates all the evils of our dilatory and costly jurisprudence; wretches who have commenced suits for the recovery of their rights, under the best auspices, and best advice, are involved in hopeless ruin, by the delay and expense of new trials, which an abler judge would have avoided, and his whole course, from the commencement to the termination of circuit, is productive of misery and disappointment. In the spirit of our government, the creators of such a judge, in their sympathy for a man of their own class and acquaintance, have overlooked or disregarded the torments they inflict on thousands less immediately before them.

But supposing that public opinion were strong enough to enforce a greater degree of discernment and integrity in the appointment of judges, supposing them to be chosen from the best qualified class of barristers, it is clear, that in order to induce them to accept the appointment, the salary must be equal, or nearly equal to the income they can obtain at the bar. Something may be abandoned for the honor, something for the certainty of the provision, and something perhaps for a little diminution of the amount of professional exertion; but a man with a family, will not choose to relinquish much. Now an able counsel, in the vigour of his life, whose opinions on professional questions are esteemed of value, who has industry to acquire legal knowledge, and acuteness to apply it in argument, can generally command from 4 to 6,000*l.* a-year, and has a right to look forward to more; and though applications to such men to become judges have been rare, one at least, the late Mr. J. Dampier, refused the appointment under the late scale of salary, until ill health disabled him from labouring as an advocate. We think, therefore, that competent persons between the ages of thirty and fifty, would not, in general, accept the situation for a less salary than that which has been at present established for the puisne judges. For the chief justiceship of the King's Bench, the highest judicial talent that the bar can furnish, ought to be obtained, and if there

have been many instances, as we think there have, in which talent of this kind (as in the case of the late Lord Ellenborough, or Sir S. Romilly) has been able to command 10,000*l.* a year at the bar, it would be inexpedient to fix the salary at less; but it certainly ought not, as some have suggested, to be raised higher, because some kinds of talent have produced a greater amount of income. The talent which is best adapted for the office of judge—extensive legal attainment, united with a clear logical intellect,—does not constitute that which is usually most successful at the bar. The bullying, browbeating, *Nisi Prius* advocate, obtains much the larger share of fame and money; but it would be impossible to find an individual less fitted for the judicial functions. Ignorant as he is of all law, except the narrow and mischievous rules which effect the exclusion of evidence, constantly addressing himself to the passions and the prejudices of juries, and succeeding with them because he is as prejudiced and ill-instructed as they, his life may be said to constitute one long trick. To see him winking at the foreman of the jury, shrugging his shoulders, and making undertoned observations during his opponent's speech, one would think him better fitted to play a part in a farce, than in the grave administration of justice; justice, indeed, or injustice, truth or falsehood, must be to him matters of complete indifference, his only object being, *per fas aut nefas*, to succeed in the cause and obtain another brief from the attorney who employs him. Such a man, notwithstanding his 12,000*l.* a-year, ought, we think, to be excluded from the list of competitors for the office of judge, and if so, there can be little doubt of obtaining a Chief Justice for 10,000*l.* a-year.

With respect to the 8000*l.* a-year for the chief justiceship of the Common Pleas, that sum seems to have been now fixed as a compensation for certain patronage of which the present chief justice has been divested; but it will be a large salary for his successor, unless the constitution of the court be altered and its business much increased. Upon what ground, however, the Chief Baron of the Exchequer should receive 7000*l.* a-year when the Vice Chancellor has only 6000*l.* we are unable to comprehend, unless we may be permitted to call the affair a job. But for the circuit, the Chief Baron's office as compared

with that of other judges, is nearly a sinecure, while the Vice Chancellor is constantly employed in the most laborious and important duties. The lawyers, indeed, who have a natural antipathy to any thing new, who have an interest opposed to the dispatch of business, and who, as they all expect to be Chancellors, deprecate the transfer of any portion of the Chancellor's power and jurisdiction, speak slightly enough of this office of Vice Chancellor: Mr. Denman, in the course of the debate, styles it with a sneer, "that creation of an act of parliament\*," as if an act of parliament were not an act of the legislature, and as if all the courts of justice had not been the creations of the legislature for the time being; but the ministers, who are men of business, and not lawyers or antiquarians, can scarcely be so childish as to measure their estimation of a court by its novelty or antiquity, to assign 7000*l.* a-year to the Exchequer because it is the oldest, and only 6000*l.* to the Vice Chancery because it is the newest of our tribunals; on that principle they might assign, with equal propriety, 7000*l.* to the Court of *Pie Poudre*. The solution of the mystery may be left to the ingenuity of the reader.

With respect to the police magistrates, the increase of their salaries was, upon Mr. Peel's statement, altogether unjustifiable. According to him those magistrates, like all official persons, are the very essence of perfection. Nothing can equal their industry, ability, and integrity†. Now if it were true that persons so unexceptionable and accomplished could be found to transact the business of the police offices at 600*l.* a-year, it was, according to our principles, a barefaced robbery to make the public pay 800*l.* But Mr. Peel, like his colleague, the Chancellor of the Exchequer, speaks in these matters under a kind of compulsion. It would be awkward to charge with incapability the functionaries under his department unless he intended to dismiss them. He evidently was caught in a dilemma, and we will not be uncandid enough to take advantage of his distress. The truth is, and Mr. Peel knows it as well as any body, that the police magistrates are not of the essence of perfection, and he must have been grieved at their frequent exhibitions of weakness and incapacity. This we ascribe in the main to the circumstance, that a sufficient number of competent persons

could not be induced to offer themselves for the service at a salary of 600*l.* a-year. The immense business of the metropolis gives rise to a number of police cases far too complicated for the attainments and capacity of an ordinary justice of the peace. Some knowledge of the mysteries of law is undoubtedly requisite for a police magistrate, together with a considerable proportion of industry, patience, and discernment. Now the lawyer who possesses these qualifications has, at least, a fair chance of attaining 800*l.* a-year by the pursuit of his profession, and considering the length and expense of his education, it is not likely that he will forego his hopes of ultimate success for a smaller consideration. We believe that, till within a recent period, competent persons were not frequently in the habit of offering their services, and that the appointments, such as they have been, have for the most part been as good as circumstances would admit. It is true, that occasionally most efficient and upright magistrates (such as Mr. Colquhoun) were obtained at the low stipend of 400*l.* a-year; but our proposition is, not that no competent person will offer himself for such a sum, but that a sufficient number will not offer themselves. Undoubtedly, in making the salary worth the acceptance of a man of talents, there is also danger of its becoming worth the acceptance of a scion of the aristocracy, and of the whole of the appointments becoming a job under the almost irresistible influence of that prodigal portion of the community; so that we are driven to the unhappy alternative of deterring competent persons from offering their services, or of incurring the risk of seeing them excluded by ignorant and worthless favorites. Of the two, we prefer incurring the risk, diminished as we trust it may be by the increasing power of the public press and public opinion, and by the possible introduction of checks against abuse. If competent persons cannot be induced even to offer their services, the evil is certain and irremediable.

We shall now examine a few of the arguments which have been adduced in support of and in opposition to these measures.

According to Mr. Peel and Mr. Scarlett, a main reason for raising the salaries of the judges, is to sustain the *dignity* of those high functionaries‡. Dignity is a word which no doubt has a received

\* *Ante*, p. 479.† *ib.* p. 497.‡ *Ante*, pp. 482, 491.

meaning; but there are many persons who may feel somewhat at a loss to comprehend its true import. For our own parts, we never could determine whether it meant a coach and six,—a house in Grosvenor Square,—a solemn and sour visage,—or an extra quantity of horse-hair grease and flour for the frame of such visage. But of this we are certain, that we never hear the word without a shudder of apprehension. It is a mode of address as sure to be followed by a demand on the purse of the bearer as the presentation of the highwayman's pistol, and like the report of that pistol, two often deprives its victim of all power of reply. Dignity of the crown, dignity of the bench, dignity of the church! who will say that such dignities or dignitaries ought not to be well paid in order to support their dignity? Lord Ellenborough affirms it is expedient to raise the chief justice to the dignity of the peerage, in order that he may assist the House of Lords in its judicial capacity; and if so, it is quite clear that he ought to have a salary proportioned to the dignity of the house\*.

Unfortunately, whatever be the meaning of the word, the *thing*, dignity, pre-eminently tends to disqualify the possessor of it, for the discharge of his duty. The most important part of it, often becomes *beneath* his dignity, and must be committed to a deputy or secretary.

Mr. Peel also, in the first debate, says (in all simplicity, no doubt), that the *consequence* of the judge's emoluments not exceeding 3,200*l.* a-year, was, that during the last 25 years, scarcely any judge had been appointed to the office until he had turned 60 years of age†. Whatever might have been the case, had the appointments been *offered* to competent men, the actual appointments have no more been the *consequence* of the low salaries, than they have been the consequence of the pepper-box at the top of Westminster-Hall. But the instances in which they have been offered to competent men *in the vigour of life* being rare indeed, Mr. Peel can have no just grounds for the assertion he has made. Dr. Lushington, with equal simplicity, insinuates, that the lawyers are incompetent to take care of their own interests—that they are too prone to undervalue money—and that they ought not to be permitted to make the sacrifice of accepting honour in lieu of salary‡. If this new light had not been

imparted to us, we confess we should have imagined that persons appointed to offices of which the incidents were generally known, might be at least permitted to determine for themselves, whether or not it suited them to take, as the payment of their services, money, house, candles, coals, or honour, as the case may be; unless indeed, where the appointment, like that of sailors pressed into the King's service is one, which they cannot conveniently decline. Mr. Searlett, whom nothing can move to give an opinion about the puisne judge-ships, has started a curious theory with respect to the chief justiceship§. He holds the profession of the law to be a great lottery, into which adventurers are tempted, mainly by the magnitude of the chief prize, and that if that prize, independently of its value in the shape of glory, should not produce 12,000*l.* a-year, there might very soon be wanting a due supply of good men to serve litigants in Westminster Hall and on the Northern circuit. We cannot entirely agree with the learned gentleman, for though, no doubt, a modest aspirant here and there may confidently expect the seals, from the moment he enters a special pleader's office, we believe the great body of lawyers enter and pursue the profession with the humbler object of earning their daily bread.

Mr. Searlett's reason, however, for raising the salary of the chief justice, is nothing, when compared with one of the Chancellor of the Exchequer's reasons for raising that of the chief justice of the Common Pleas||. The *rt. hon. gent.* admitting that the practice of promoting judges from one rank to another is not altogether calculated to promote that independence of the crown so much vaunted and so little existing, enumerates among the advantages of an increased salary that it will tend to check too violent aspirations after preferment. An admirable cure for the evil, truly! As if the preferment of a judge depended upon the violence of his aspirations for it! As if the will, the power, and the interests of those who promote him had nothing to do with the matter! As if a judge, who only charged a jury fairly upon the trial of a political offender, might not aspire till his heart broke with disappointment, though his aptitude, integrity, and kindness, were the theme of universal admiration! Besides, who among the least versed in human

\* *Ante*, p. 495. † *ib.* p. 482. ‡ *ib.* p. 480.

§ *Ante*, p. 491.

|| *ib.* p. 478.



nature ever dreamt that ambition would be checked or sated by acquirement?—Every child has learned that the thirsty aspirants after wealth or honours, *quo plus meat poti plus sitiuntur*; and it may be deemed about as probable that oil will extinguish a fire, as that the accession of wealth will assuage the desire for more. This business of the promotion of the judges, is, indeed, a difficult matter to handle in the present state of our judicial institutions. Mr. Brougham proposed, as a kind of check, that the house should come to a resolution that such promotion was inexpedient. An express provision, prohibiting such promotion, might often deprive a good man of his reward, and the country of his services; while the provision would, after all, be inefficient, unless it also prohibited the preferment of a judge's friends and relations to the tenth degree; but a mere resolution, declaring the inexpediency of the practice, would add scarcely any thing to the small control which public opinion contrives to maintain over the matter. This, after all, and the vigilance of a public press, seems to be the only corrective the evil admits of, so long as the appointment of judges is vested in the Crown.

The arguments urged in opposition to the measure, having in effect, been considered in the beginning of this article, need not here occupy us at any length. Lord Ellenborough persists that there is nothing like fees to make judges work, and that if they are paid by salary instead, a double number of them will be requisite to perform the same quantity of labour\*. The preponderating objections to this mode of payment we have already shewn, but his lordship, no doubt, has cogent reasons for viewing the matter in a different light.

Mr. Brougham, Mr. Denman, Mr. J. Williams, and Mr. Hume, opposed any increase to the salaries of the puisne judges, on the ground that no instances were adduced of competent persons in the prime of life having declined the station on account of the inadequacy of the salary†.—But the argument is not worth much unless accompanied with the fact that there are *many* such persons to whom the station has been offered.—Confining ourselves to the present century, we are satisfied that the fact is otherwise.

Mr. Denman urged also, that alteration

from time to time in the salaries of the judges, especially at the instance of the Crown, was incompatible with their dignity, and subversive of their independence. Dignity, for aught we know, may by judges be esteemed a more indispensable endowment than salary; but the learned gent.'s argument, if pushed to its consequences, would reduce the salary to at least what it was in the time of Edward III., probably about 6d. a-day; and as the Crown has the payment as well as the appointment of the judges, whatever might become of their independence, it is easy to guess what would become of their existence if the salary were to remain stationary through several centuries. The learned gent., however, has an argument which, with regard to the present judges, is at least as conclusive. He is certain they do not desire any increase. How he arrived at this certainty, we are entirely at a loss to comprehend, for were their lordships to swear it upon cross-examination in a witness-box, we should believe them to the same extent that we believe a bishop elect when he cries *Nolo episcopari*‡.

In the course of the debate, some matters were touched on incidentally, which must ere long form the subject of a legislative measure, and therefore we shall only advert to it here. It was suggested by Dr. Lushington, that much time might be saved to the courts at Westminster, by enabling a judge to pass sentence at the assize in cases of misdemeanor, as well as in cases of felony. At present, when an offender is convicted at the assizes, of a misdemeanor, such as smuggling, molesting custom-house officers, &c., instead of being sentenced on the spot, he is brought up the next term, at an immense expense and inconvenience, it may be from Cumberland or Cornwall, to receive sentence in full court at Westminster. To this extent his punishment is always aggravated beyond its due measure, and hours and days which ought to be devoted by the court to more important business, are consumed in hearing affidavits and exculpatory speeches. In whatever way the practice originated, not a single reason can be adduced for the continuance of this absurd anomaly. The single judge who is entrusted with passing sentence of death for burglary or murder, may surely be entrusted with the punishment for an assault, or a breach of fiscal regulations.

\* *Ante*, p. 495. † *ib.* pp. 487, 479, 481, 484.

‡ *Ante*, p. 479.

Another grievance incident to the trial of the heterogeneous offences which are technically but most absurdly and illogically all lumped together under the denomination of *misdemeanor*, is the judge's inability to order the prosecutor's expences, as in cases of felony, to be borne by the county.

On account of the impossibility of sustaining this expence, prosecutors are frequently prevented from coming forward in the most aggravated cases. Take the case of rape: in many instances of the most cruel and brutal violation, the victim, from extreme childhood, ignorance, or modesty, is often unable to state that technical completion of the offence which constitutes a capital felony, and the only course is to prosecute the offender for what is called the misdemeanor of *attempting* to commit the capital offence.—These technically styled *attempts*, are generally among the very worst cases that come before our criminal tribunals. The victims are often indigent persons—they incur great expence and loss, and are frequently unable to pursue the offender, unless the parish officers will come forward and pay for the prosecution. A bill, enabling the judges to order the prosecutor's expences to be sustained by the county in aggravated cases of misdemeanor, would receive the support of every one acquainted with the details of a court of justice.

#### Mr. Kenrick.

THIS case, which occupied a considerable portion of the time and attention of the House of Commons, stands briefly as follows. In the month of May, 1824, Martin Canfor, a farmer, lost from Charlwood Common, in Surry, about twenty sheep; one of which was a ram, marked on the fleece with a peculiar composition. After considerable search for a week, he found some of the sheep on Westwood Common, about five or six miles from Charlwood; and, having been told, by one Huggins, that William Beale, who used to turn sheep on Westwood Common, had been seen leading the ram in a string, he proceeded to Beale's farm, about four miles from Westwood. Here he found the ram, newly shorn, in a fold with Beale's sheep, which were shorn also. Beale, upon being questioned, said he had bought the ram some time before; and being requested to produce the fleece, refused to do so.

Canfor then proceeded to Mr. Kenrick, and solicited a search warrant for the fleece, saying he had seen the ram, which he would swear to, in the possession of Beale; but he omitted to state that he had heard Beale had been seen leading the ram in a string.

Mr. Kenrick declined taking Canfor's deposition on oath, and, instead of granting a search warrant, wrote to Beale the following note, which he directed Canfor to convey to him:—

"These are to request that you will deliver to the bearer the fleece of a sheep admitted to have been taken by you from Westwood, in order that it may be produced in evidence before me on a charge of felony; or bring it with you to my house, and shew cause why you should not do so.

"To William Beale."

William Beale was brother of Mr. Kenrick's bailiff.

Canfor represented that Beale would pay no attention to such a paper, and again requested a warrant. Mr. Kenrick flew in a passion, and ordered him out of the room. Canfor proceeded to Beale, who again refusing to deliver the fleece, Canfor applied for a search warrant to another magistrate; but he declined interfering, after Mr. Kenrick had acted in the business. The next day, Canfor returned to Mr. Kenrick's, where he saw William Beale, conversing with his brother, Mr. Kenrick's bailiff: he again asked for the fleece, when Beale said, "I'll see 'it out with you;" and both he and his brother laughed. A servant of Mr. Kenrick's then informed Canfor, that the whole business had been referred to two neighbouring farmers. Before them Beale produced the fleece, and they decided it to be the property of Canfor. Canfor then went in to Mr. Kenrick with the fleece, to report what had happened; when Mr. Kenrick, ordering his servant to shut the door, appointed him a special constable to search Canfor, and take from him the note which Mr. Kenrick had addressed to Beale. Canfor refusing to surrender it, the parish constable was called in, and the note and fleece were both taken from Canfor. For this treatment he brought his action against Mr. Kenrick; and the cause coming on for trial at the Surry assizes, Mr. Kenrick, by his counsel, consented to pay 5*l.* damages and all costs.

Mr. Kenrick's defence was, that the property being contested, he had detained the fleece with a view to restoring it to the person to whom it should ultimately be found to belong.

In addition to this case, Mr. Denman proposed also to bring forward a charge of misconduct against Mr. Kenrick, in certain transactions concerning one William Franks; and he moved for, and obtained copies of certain affidavits filed in the Court of King's Bench, in some proceedings arising out of those transactions: but the house objecting to mix up this matter with the charge in respect of Canfor, Mr. Denman postponed the further consideration of it to the next session.

With respect to Canfor's business, after he had been examined at great length, Mr. Denman moved that the committee should come to a resolution. "That Mr. Kenrick appears to have neglected his duty as a magistrate, in not inquiring into facts of a suspicious character; and that his subsequent conduct in causing Canfor to be arrested and searched, was illegal, arbitrary, and oppressive, and a gross abuse of his authority as a magistrate."

Mr. Peel and Mr. Canning opposed this resolution, on the ground that it would be nugatory, unless followed up by an address to the King for the removal of Mr. Kenrick; that such a step, even admitting Mr. Kenrick to have exhibited indiscretion and want of temper in Canfor's case, (and no other was before the house), would be a very disproportionate visitation even for the full extent of the failing, especially after he had suffered by paying the costs of an action; and that, upon the whole, sufficient ground had not been laid for the interference of the house.

We view the case in the same light.

Considering that the ram was turned on a common, whence it might easily have strayed; considering that Beale was a farmer with some property and many sheep, and not likely to have been tempted by inducement to the commission of theft; considering that, instead of manifesting any indications of furtiveness, he openly asserted a property in the ram; we think the magistrate exercised a proper discretion in hesitating to blast the character of a respectable man, by granting a search warrant under such circumstances. In his subsequent conduct he certainly betrayed considerable weakness; such weakness as to provoke the observation that a man with so little capacity for the office could never have been appointed a judge, except by means of sinister influence. But, however this may be, it would seem a rigorous exercise of power, to dismiss a

public officer from his station merely on account of occasional weakness.

What may be the result of the investigation of Franks's case, it is impossible for us to foresee. Unless, however, we have been greatly deceived, it will turn out to be a business very different from that of Canfor's.

### *Appellate Jurisdiction of the House of Lords.*

WHEN James the First asked Lord Coke, why, if the law were, as Coke asserted, the perfection of reason, his majesty might not take his seat on the bench and distribute justice with as much success as any of the judges; Lord Coke told him, that the reason of the law was a technical reason, with which his majesty could not have had the means of becoming acquainted. If this might be said to a king, two hundred years ago, we think we may, without offence, regret at this day, that the House of Lords should still continue to be a tribunal of justice, and the highest tribunal in the kingdom. To decide in cases of appeal, which are supposed to have in them more than ordinary difficulty, is not an easy thing, even for those who have spent a whole life in the exclusive study and practice of jurisprudence, but to those who have never been at much pains to acquire a knowledge of law, it must be in a great degree, a matter of hazard whether in any case before them they decide right or wrong.

It will never be contended that any man can acquire by inheritance the knowledge requisite for a judge, and it can scarcely be expected that an individual who is under no responsibility for his decision, will have any motives for entering into a study, of all others the most extensive, difficult, and repulsive. It is true that the House is assisted in these matters by the Lord Chancellor, or his deputy; but if they are implicitly to follow the opinions of those learned persons, the appeal might be directed to those persons alone, and the House of Lords be saved the trouble and inconvenience attendant on its decision. If the House does *not* follow such opinion, they have at least the *power*, (we are far from imputing to them the *will*), to decide erroneously.

Therefore it is, that among those who are most attached to the constitution of this House, as far as regards its legislative functions, there are many who regret that it should still retain a jurisdiction, which adds neither to its respectability nor power, but casts on it a considerable burden, without any correspondent advantage to itself or the public; and this impression has been rather strengthened than otherwise, by the arrangements which Lord Liverpool announces, with so much apparent satisfaction, for disposing of appeals; *disposing*, is the word employed by his Lordship; and upon his own shewing, we think it appears pretty clearly that they are not *decided* by any member of the house, except Lord Gifford.

Considerable difficulty having been experienced for many years, in securing the constant attendance of the number of lords necessary to form a court, and the number of appeals having increased to such an amount that many years would have been necessary for the hearing of them, to say nothing of fresh accessions to the list, a resolution was adopted by the House, under which, the *quorum*, or number necessary to constitute a court, are *compelled* to attend not from the beginning to the end of a cause, or number of causes, but day after day in a certain rotation; so that frequently lord A hears the plaintiff's case, lord B the defendant's, and lord C, who has heard neither, decides! This outdoes the worst that ever has been charged against the judges on the other side of the Styx. "*Castigatque auditque dolos*." Rhadamanthus, though he occasionally carried his judgment into execution first, would sometimes hear the cause afterwards; but lord C decides, and never hears at all. And this mode of administering justice, or, to use the more appropriate phrase, *disposing of causes*, Lord Liverpool, to our surprise, describes to the House as a subject of congratulation. To such inconsistencies may even good and able men be reconciled by custom and establishment.

It is not our purpose, at present, to enter further into the subject, or to expatiate upon the objections to uniting in the same persons the incompatible functions of judge and legislator. If his lordship is serious in wishing to improve the administration of justice in the last resort, let him think of establishing a metropolitan court of final appeal, which

shall have no other duties to attend to; which shall relieve the House of Lords from the performance of a task, which that House has neither leisure nor legal knowledge aptly to perform, and which shall leave it unembarrassed to its own province of legislation.

### County Courts' Bill.

NOTWITHSTANDING the loud and repeated boasts touching the equal administration of justice in England, it is a fact as painful as indisputable, that a very large proportion of our population is utterly excluded from our courts. The average annual income of an individual of the working classes is under 30*l.*, while there are very few suits which can be carried on for so small a sum, and a large proportion of contested cases of the simplest description, are not concluded at a less expence than from 70*l.* to 100*l.*: so that if the labourer were able to subsist on air, and willing to sacrifice his whole substance, he would rarely succeed in his demand for justice. The time, too, which it takes to carry on an action in our courts of law (at present we say nothing of Chancery), is seldom less than one whole year, and often extends to four or five, which makes it generally more advisable to submit to wrong than to seek redress, and by offering a premium upon fraud and injustice, renders law the corruptor instead of the help of morals.

The cause of all this delay and expence seems to lie in three peculiarities of our legal system: 1. The confining of the principal courts of justice to the metropolis; 2. The exclusion of evidence, particularly the testimony of the plaintiff and defendant; 3. The artificial complexity of our procedure in other matters, particularly in what relates to the written pleadings.

1. The principal courts being placed in London, and, with a very few exceptions, it being necessary to commence and carry on in them all actions through several of their stages, an injured party who resides at a distance, whether in Cumberland or Cornwall, instead of having a district tribunal to which he may immediately resort, is compelled to go through the following process:—He applies to his attorney in the country: his attorney in the country applies to an attorney in Lon-

don: the attorney in London obtains the writ which commences the action, and applies to the special pleader, who frames the technical statement which sets forth the cause of action: the pleadings, which are the technical statements of both parties, are, at great expence, sent backwards and forwards several times from the attorney in London to the attorney in the country, and after a lapse of from three to nine months, or more, the attorney in London makes up from these pleadings what is called the record, or authoritative written statement of the plaintiff's claim and defendant's ground of resistance. This record—which is unintelligible to any but lawyers, and to lawyers discloses nothing definite but the naked point in dispute—this record is delivered to the associate of the judge who travels on circuit into the county where the plaintiff lives. At the time of the assizes, the plaintiff, with his country attorney, and sometimes with his London attorney also, repairs to the assize town, and there hires two or more travelling barristers to conduct his cause. But after all this delay, trouble, and expence, it often happens that he cannot obtain a hearing, much less a deliberate hearing. The travelling judge has not usually more than five or six days in the whole year to try all the causes in the county; that is, two or three days at the Spring, and two or three at the Summer assizes. If the plaintiff's cause be one, as it is termed, of little importance—that is, touching a small amount of value, it is hurried over, in order to make way for what are termed more important causes. If it be of the latter class, it is too important, and involves too many details to be properly heard among fifty other causes in the hurry of a three days' assizes, and the parties are often, in spite of the most strenuous resistance, and after incurring the most frightful expence for the attainment of regular justice, foisted off with an arbitrator.

It must not be imagined that this clumsy mode of administering justice, which has existed for so many centuries, is the result of any deliberate plan or superior sagacity in those who set it on foot. Before assessed taxes were invented, before the commerce of the country had made customs and excise a mine of wealth to the government, a main source of the King's revenue was derived from the sale of justice. But as there was a court baron in every manor, from which my lord baron,

the hereditary owner of the court, derived also some small income, and hundred courts, and county courts, each productive of fees to a pleasing amount; the King naturally looked on these rival institutions with an evil eye, and under pretence that justice was ill administered in them—which, considering that the presiding baron was self-appointed and irresponsible, is probably true as to the courts baron—contrived that almost every kind of suit should be carried on in his courts at Westminster only. This was effected partly by prohibiting suits of certain descriptions from being entertained at all in the inferior courts, or by giving the metropolitan courts a concurrent jurisdiction, and immediate power of removal to them by either of the parties below. The Crown having thus secured the fees, the next question was, how to satisfy the demand for justice at the least expence. To deny it altogether would be to cut off the fees themselves; to compel parties and witnesses when there was little money and no roads or stage-coaches, to travel from Cumberland to London for the hearing of a cause, would have been in effect to deny it altogether. To save the fees, therefore, and avoid the clamour, as the suitors could not come to the judges in London, the London judges were sent to the suitors: at first, once only in seven years; afterwards, once a year; and finally twice, as at present. This old clock-work of revolving judges has been going so long, that partly out of respect for its antiquity, partly from inability to comprehend its structure, and still more from exaggerated apprehensions as to the inconvenience of change, a large number of well-meaning persons would hear with horror any proposal for taking the machine to pieces, and substituting one better adapted to the wants of modern times; to those, however, who are able to point out the defects of the system, it becomes necessary to assign a more plausible reason for its continuance, and what we usually hear is, that a travelling judge, having no acquaintance or connexions in the county to which he is sent, will not be warped from impartiality by those local biases, and that previous knowledge of the parties, which, as they say, a resident judge could scarcely manage to avoid. It happens, however, that the travelling judge, before he becomes a travelling judge, serves his time as a travelling barrister, and

in that capacity forms numerous and intimate connexions, and still more extensive acquaintances in the counties through which it is his custom to pass. When he becomes a judge, old habits and old associations still retain their influence, and he contrives to go, oftener than any other, the circuit he travelled as a barrister. Formerly, he was prohibited from presiding in a county in which he possessed property; but this regulation was found so inconvenient and useless, that it has recently been abandoned. In truth, the best security for the impartiality of a judge does not consist in his ignorance of the parties,—if indeed that be any security at all,—but in the most unbounded publicity that can be given to his proceedings, including of course the vigilant observation of a free press. But even if it were clear, that a resident judge would, in spite of publicity, be guilty of occasional misdecision from motives of partiality, the amount of evil to be incurred in that shape is infinitely less than the absolute and extensive denial of justice, which is unavoidably occasioned by the delay and expense of the present system.

Another reason which is commonly advanced in defence of circuits is, that in the present state of our jurisprudence, particularly of that branch of it which is called oral or unwritten law, it would be impossible to preserve uniformity of decision throughout the kingdom, unless the twelve metropolitan judges, who, to a considerable extent, make the law as occasion calls for it, were themselves to promulge in the provinces the rules upon which they agree to act. To which we would answer, that this desired uniformity might still be preserved, by allowing one stage of appeal to a metropolitan court. Where the parties desired a rehearing upon disputed facts, they might have it, as often as necessary, before the provincial judge or jury, to whom, even as matters now stand, such rehearing would be referred under the name of a new trial. But where they were dissatisfied with the judge's decision in point of law, a statement of the case, and of the point of law in question, might be sent by the post, at little or no expense, direct to the metropolitan court of final appeal, where the only charge to be incurred would be the barrister's fee for argument. But why should the difficulty of the attempt for

ever preclude us from having something like a general, and generally intelligible rule of action, in a well-digested code? Why should not the work of consolidation and arrangement, which has been commenced in the instance of the customs, bankrupts, and juries, be carried on through every head of our law. Let a committee of judges determine which of the common law decisions they are willing to abide by, and which to overrule; and let those they are content to abide by be framed into acts of parliament, under appropriate heads and titles. Let new decisions, arising under these heads, be transmitted annually to the legislature, after consultation by the judges; and the rules arising out of them be added to the code under their respective heads. The miserably confused and uncertain state of our jurisprudence compels us to make, even here, these cursory observations, though the subject is one of such difficulty and importance, that we must ere long enter upon it by itself and in detail.

2. But to proceed now, to the second of the three peculiarities in our legal system, which contribute so much to the hindrance of justice; we mean, the exclusion of evidence of various kinds, particularly the testimony of the plaintiff and defendant, to which we shall confine ourselves for the present. This is productive of the most enormous inconvenience, and is attended with no assignable advantage. In nine cases out of ten, if the parties were publicly confronted in the presence of the judge, it would be found, that no matter of fact was in dispute; that nothing could call for consideration but the question of law; and the cause would be ended at once: in all cases, the expense of many witnesses might be saved by admissions and explanations, which could be obtained at once from the parties. The two grounds on which the exclusion is justified, are, the temptation the parties would be under to commit perjury, for the sake of pecuniary gain, and the liability of a jury to be misled by this perjury. Now, exclusion on the ground of the alleged temptation, supposes that men are actuated to falsehood, by no motive but pecuniary interest; that fear and favour, hatred and affection are without influence; that the man who would perjure himself for sixpence, would speak the truth to the ruin

of his friend, or kinsman. Unquestionably a man who has an interest in any way, whether in the way of affection, or the way of money, will generally be liable in some degree, to misrepresent; but if the judge and jury can make the necessary allowance for this bias in the case of other motives, upon what ground are we to presume them so foolish, as not to be able to make the same allowance in the case of pecuniary interest? All this while, be it observed, that the testimony of the party injured, is freely admitted in cases of felony, though his property is often restored to him in court, as the immediate result of his testimony: that the life of a prisoner often depends on no other evidence; and that though this evidence is excluded upon civil matters in courts of law, where it might be received in the best shape, subject to the check of publicity and cross-examination, it is constantly admitted in courts of equity, in the most exceptionable shape, viz. in that of depositions drawn up in an artful form by the attorney or counsel, and afterwards sworn to by the party in private, subject to no check from the powerful sanctions of publicity and examination.

3. The artificial complexity of our procedure in other matters, and particularly in the written pleadings, remains to be noticed.

The restricting many portions of this procedure, to certain stated periods called terms, each of them lasting little more than three weeks, and occurring but four times a year, is the obvious cause of much unjustifiable delay; but the most vexatious promotives of delay, vexation and expense, are the written pleadings. Instead of the judge calling the parties before him, ascertaining from each of them, what is the ground of complaint and what the answer, and reducing this to writing himself as in the case of a trial for felony, the parties are obliged before trial to make a statement in a technical form, upon the conformity of which to certain scientific rules, the event of the cause often turns altogether independently of its merits. Further, as it is not allowed to give in evidence any thing at variance with, or not suggested by this technical statement, and as it cannot be ascertained with certainty before-hand, what the witnesses will say, the parties are often obliged to make dif-

ferent statements, sometimes to the number of 50 or more, and seldom fewer than ten, in order that one of these may have a chance of agreeing with the evidence to be adduced. Copies of these multiplied writings are then to be made in great number, for judges, counsel, &c. The only pretence assigned for the waste of time and money occasioned by this useless repetition, is, to prevent either of the parties being taken by surprise at the trial, by the allegations of the other; but these pleadings are so far from giving the slightest information as to the nature of the case to be brought forward, that it has for years been the established practice for the judges to compel the plaintiff, in addition to his technical statement termed the *declaration*, to give in a *bill of particulars*, which is nothing more than a brief and ordinary statement of what he requires at the hand of the defendant, such as any person is competent to draw up, and to which he is confined at the trial, so that the scientific and interminable declaration becomes entirely useless. So, with regard to the defendant; although in one class of actions, he is still obliged to frame what are termed his *special pleas*,—an infinite number of different statements of his grounds of defence, drawn up in a minute conformity with certain ancient rules,—yet in another, and by far more extensive class, he is allowed, in what is called a *general issue*, simply to deny the truth of the plaintiff's charge, and under this denial, without further notice to the plaintiff, to give in evidence every possible variety of defence. Indeed we have the strongest legislative recognition of the inutility and mischievousness of special pleading; for almost every act which prescribes rules for regulating procedure in the affairs of chartered companies, public commissioners, actions against magistrates, and the like—expressly enables defendants in such cases, to give in evidence every kind of defence under the general issue; that is, a general denial of any charge made against them, without the least intimation to the other party of the real ground of defence.

The evil occasioned by the denial of justice arising out of the three causes we have just explained, has been so intolerable, that from time to time, various palliatives have been applied by the legislature; the chief of these, are, what are termed Courts of Conscience, which have

been established in most of our large towns, for the recovery of debts to the amount of forty shillings, and in some instances, five pounds. These courts are presided over by judges resident within the district, by whom the parties litigant are at once examined touching the matter in dispute, without incurring the expense of making statements in the way of written pleadings. The great defect of these courts has been the absence of responsibility, and the want of appropriate aptitude in the persons appointed to preside over them. The judges of these Courts of Conscience are generally a number of unpaid commissioners, selected from the tradesmen in the neighbourhood; wholly ignorant of law, and often conducting their proceedings with closed doors. Considering the numbers among whom it is divided, the responsibility attaching to any one of these judges, is reduced almost to nothing; for men, like hounds, will do many things in packs, which they would be afraid to venture on singly.—The responsibility, such as it is, is not assisted by any fear of publicity, and let the worst happen, and misconduct be brought to light, the excuse is always ready; “These functionaries do their work for nothing; we must not, therefore, be severe, to mark what is amiss in them.”

Notwithstanding these objections, Courts of Conscience have been found upon the whole, so much less bad than our ordinary courts, that there has been a constant demand for their extension. We have seen that at present they are confined to our large towns, and usually to cases of debt not exceeding forty shillings. Lord Althorp, therefore, with the most praise-worthy industry and benevolence, has for many years been labouring to establish for the people at large, courts which should combine all the advantages of Courts of Conscience, without their defects, which should proceed in the same natural and summary way, but be presided over by judges competent to the discharge of their duties.

His first plan was, that there should be a district judge for every two or three counties; that he should hold jury courts in every considerable town, once a quarter at least, and have jurisdiction over cases of debt to the amount of ten pounds; that the pleadings should be confined to certain brief printed forms, with blanks

to be filled up as the case required; that the fees and costs should not exceed 17 or 18 shillings; a party who chooses to employ counsel or attorney, not being allowed to recover the expense from his adversary. The judges were to be appointed by the Lord Lieutenants of counties.—This bill was thrown out, and the failure of it is not to be regretted, when we consider that the appointment of judges in such bands must have degenerated into a mere job. The Lord Lieutenant being subject to no responsibility or check, would necessarily, in the greater number of instances, have appointed his relation or friend, instead of the person most competent to discharge the duty.

In the ensuing Session, Lord Althorp proposed to vest the appointment in the Secretary of State for the Home Department. Immediately the Whigs set up a loud outcry about the influence of the Crown; and partly by this means, partly because it afforded no compensation to certain individuals who were likely to be affected by its operation, the bill was thrown out. This was a serious loss to the public, for though it were to be wished that the new jurisdiction should have permitted one cheap stage of appeal, such as we have above proposed, should have embraced other grounds of action besides debt, and debts to a greater if not to any amount; though it were to be wished that the fees should have been fewer, and the officers have been paid by salaries,—yet, the measure as it stood, would have conferred a great benefit on the country. As to the increased influence of the Crown, admitting it to be an objection, as far as it goes, it is far from being preponderant; since the evil of the influence is limited to the circle of the bar, already so much within the sphere of its dominion; whereas the evil occasioned by the want of justice is almost unlimited: besides, unless our institutions were to undergo an entire change, it is not easy to see in whom the appointments could be vested with less likelihood of abuse, than in the Ministers of the Crown, towards whose conduct the public attention is constantly directed, and who, therefore, are to some extent responsible for a bad appointment.

In the last Session, considerable provision was made in the way of compensation, and in order to conciliate the Whigs, the plan of having twenty or more dis-



strict judges was abandoned. Instead of this, it was proposed that the judges of the Insolvent Debtors' court, should go circuits, and hold their courts two or three times a-year. This would have placed matters on as bad a footing as in the courts of Westminster Hall. It is not to be regretted, therefore, that the measure in this shape was rejected by the House of Lords; though without discussion, and upon a very different ground; namely, the alleged inadequacy of the compensation.

It is to be hoped that Lord Althorp will not relax in his praise-worthy endeavours, and that he will be assisted in it by the Ministers of the Crown; at least if he drop his plan of circuits, and give the people tribunals to which they may have constant access. We regret that it is not at present in our power to enter more extensively into this important topic, but we shall immediately begin the undertaking. All who have had the courage to look the evil in the face, must have perceived that our whole judicial establishment requires remodelling, to adapt it to the exigencies of the present age; but to point out in detail how this should be effected, will be a task of no ordinary difficulty. Meanwhile, the institution of county courts with a limited jurisdiction, would afford a considerable palliative for the evils occasioned by the old system, and to this extent there are hopes that reform may prevail. It is for this reason, we have felt it incumbent on us to explain as briefly and familiarly as we could, the existing state of things, and the nature of the attempt that has been made by Lord Althorp.

If no reasons had been adduced in favour of the measure, the arguments advanced by the lawyers in the course of the debates, would prove it to be unobjectionable. When a veteran advocate like Mr. Scarlett, thoroughly versed in every branch of our law, and conversant with the mode of its administration, is reduced, in lieu of assigning specific objections, to call the measure a "violent innovation\*," we may be satisfied that he has only recourse to such vulgar fallacies, because he has nothing else to urge. If he could point out any mischief likely to ensue, or could prove that no benefit could be produced, by putting justice within reach of the poor, he would never content

himself with confusing the uninitiated, or scaring old women with the bugbear "innovation;" and if he, of all men the most competent, to make the worse appear the better cause—has no more to advance, we may rest assured, that the remainder of his fraternity could add nothing to the arguments of their learned leader.

### *Court of Chancery.*

As the commissioners appointed to explore the mazes of Chancery have not yet made their report, we shall defer till the next session that exhaustive examination of the subject which its difficulty and importance demands. In the meantime, we cannot avoid expressing our regret at the manner in which it has been handled in parliament.

The prevailing cause of the delay and expense of equity proceedings, is the circumstance of there being but three or four equity courts,—and those all placed in the metropolis,—to transact the business of the whole population of England. In our observations on the County Courts' bill, we have explained the impossibility of administering justice cheaply and expeditiously without bringing the parties litigant at once into the presence of the judge: but for three or four judges to examine the parties in every cause arising over such an extent of country, would be impossible; this, therefore, renders necessary, that system of written pleadings, affidavit, and interrogatories, which are of themselves, far too costly for the pocket of an ordinary suitor. The evil, indeed, can never be cured but by a total change of system, and the establishment of district as well as metropolitan courts: but it is scarcely possible to establish district courts with any good effect, until our laws shall have been remodelled into an accessible and intelligible code; and the difficulty and extent of this undertaking, is such as to render it in the eyes of many persons almost hopeless. The outcry, which has now been made, will probably occasion some trifling curtailment of the length of chancery proceedings, some slight acceleration of the various stages of process, and the abolition of some of the most outrageous abuses, such as the charging for three attendances before the master, and giving only one. This may diminish the whole load of evil in the proportion of five out of a hundred; a slow chancellor may die,

\* See *Ante*, p. 513.

and a quick one succeed him. This may diminish it five more; but no human powers could administer justice to a whole kingdom under such institutions as those which exist at present, nor under such institutions materially alleviate the mass of misery occasioned either by the denial of justice, or the destruction of the suitors' property. It is to this point, and to this exclusively, that we would direct the public attention. Let authentic information in every possible shape be obtained, as to the duration, expense, and mode of proceeding in chancery suits in general; let it be seen, whether it be possible to avoid delay and expense, without bringing the parties litigant at once into the presence of the judge; whether it be possible to bring them into the presence of the judge without having district tribunals; and whether it would be expedient to establish district tribunals without first compiling a code of laws for their uniform guidance. Admitting all that has been insinuated, rather than proved against the present chancellor, to be true,—admitting that he doubts more and decides less than any of his predecessors,—admitting that he aggravates all the evils of the court over which he presides,—for that very reason we would wish him to preside there a little longer, not for the benefit of the suitors, but of the community at large. Such a judge, if the insinuations against him be true, is of infinite service in drawing general attention to the inseparable vices of the system. With a view, therefore, to reforming the Court of Chancery, we cannot perceive any advantage to be gained by attacking the Chancellor, and we are sure that such a course is attended with many disadvantages. It diverts the public attention from the great defects of the system, to a mere squabble about the merits or demerits of an individual, and it arms against the cause of improvement, the numerous and powerful friends of the Chancellor, including the ministry for the time being.

If the blame lay mainly with the Chancellor, he ought to have been impeached for incapacity. For though the impeachment of a minister be a mere sound, and as our system is constituted at present, must terminate in his acquittal, or in an act of indemnity, it has at least the advantage of making the public acquainted with the extent of his delin-

quency; but the alleged misconduct of the Chancellor, and the imperfections of establishment over which he presides, ought never to have been joined together as the subject of the same investigation.

We are satisfied, that they who have called for and promoted the investigation, have acted with the best intentions; but, with a view to any effective alteration or improvement, we fear they have greatly erred in judgment. In addition to this, they have not exhibited such a knowledge of the subject in hand, either in a general view, or in its actual details, as is at all calculated to inspire the confidence of the public. Mr. Williams, the mover, has indeed evinced an ignorance of the nature of decisions and proceedings in equity, which would surprise us even in a student who had just read his Blackstone for the first time. Upon no better authority than an old joke of Selden's about the consciences of various Chancellors varying as the lengths of their respective feet, he gravely asserts that the decisions in chancery are guided by no rule or precedent, but depend altogether upon the discretion or caprice of the moment. But the decisions in chancery are just as much confined and regulated by precedent, as the decisions in the Court of King's Bench. In both tribunals, the judges, to a great extent, have no other rule or guide, than reports of decisions of their predecessors in cases analogous or exactly similar. The principles contained in these reports, not having been sanctioned by the fiat of the legislature, the courts, it is true, are but imperfectly bound by them, and frequently overrule or confirm them, as the feeling of the moment prompts; but they are at least as much bound in courts of equity as in courts of law. Else, what mean the hundreds of volumes of reports of chancery cases; why do judges in equity courts repeatedly declare their desire to decide one in one way upon a given occasion, and the necessity imposed on them to decide in another by reason of the principles laid down in the reported decisions of their predecessors?

A moment's consideration of these circumstances might have satisfied Mr. Williams, that equity does proceed by certain rules, and that these rules are, in effect, no other than rules of law applied to a particular class of subjects. But he asserts, that the jurisdiction of Chancery is a usur-

pation on the common law, and that it is altogether unconstitutional, that is, we presume, (for we can affix no decisive meaning to the word), something of which he disapproves—something pernicious—something which may beneficially be dispensed with. With regard to the alleged usurpation, we will not so trifle with the time and patience of our readers as to enter into a disquisition about the origin of a court which has been recognised by the legislature for several centuries as the highest tribunal of the kingdom. If the Court of Chancery be a usurpation, so is the House of Commons, so the Court of King's Bench; and as for the Court of Common Pleas, the whole of its proceedings are a mere nullity. Whether or not we could dispense with such a jurisdiction as that which is now exercised by Chancery, let Mr. Williams say, when he has considered what the common law can do in the thousand cases which are unprovided with any evidence but that of the parties litigant, whose testimony is so carefully excluded from our courts of law; what those courts could do in matters of trust, which they do not even recognise; what they could do for the protection of married women, whose separate interest they will not endure to hear of; what, in cases where a specific performance of a contract is the one thing necessary to justice, and where damages can afford no adequate compensation. Mr. Williams will scarcely be prepared to contend, that all jurisdiction over subjects of this kind ought to be abolished, and in the present state of our jurisprudence he would be the last to propose to confer it on the courts of common law. Indeed, without altering the whole frame of our jurisprudence, it is not easy to perceive how those courts could exercise such a jurisdiction. Upon the possibility or expediency of such an alteration this is not the place to enlarge, but we cannot forbear expressing an opinion, that under an improved judicial system, every court ought to have cognizance over every kind of cause, and that the distribution of the tribunals should be purely local, without any metaphysical division of jurisdictions. This is a topic on which Mr. Williams has evidently thought very little, or thought to very little purpose; for he is, indeed, mistaken if he imagines that the institution of juries is alone able to supply every defect in the administration of

justice. We had hoped, however, that he would at least have been competent to have collected and brought forward the details of the present state of Chancery procedure; but in this point he has failed as signally as on every other. There is not a town or hamlet, there is scarcely a family possessed of any property, that is not more or less involved in the vortex of this dreadful tribunal: day after day multiplies the number of victims; and a large return might annually be made of those who actually die of protracted hope, disappointment, and even starvation, which might have been prevented by the acquisition of property withheld from them by the ruinous delays of the court: thousands of cases might be brought forward which have lasted from ten to twenty years, and upon each of which from ten to twenty thousand pounds has been expended. The difficulty among so many victims is not which to select, but which to put aside for the present; and yet Mr. Williams, with such a mass of undeniable suffering to choose from, brings forward in his last speech, five cases, none of which are aggravated, and nearly the whole of which admit of explanation and answer, if not of complete exculpation. This answer and explanation were given to a certain extent by the Solicitor General, who thus, upon an occasion when even he might have been reduced to silence, was enabled, for the only time in the history of Parliament, to make a plausible statement in vindication of the proceedings in Chancery. However excellent Mr. Williams's intentions may be, he is manifestly incompetent to the task he has undertaken. At present he has done harm rather than good by exposing himself to an inexcusable defeat; and we cannot help praying that the business may fall into abler hands.

### *Consolidation of the Jury Laws.*

THE statutes enacted in our Parliaments, and the decisions reported in our courts of law, are daily and hourly multiplying to such a degree, that the necessity of framing them all into a well digested code is every where sensibly felt. To buy these new laws as they come forth year by year is a matter of difficulty even to men of moderate fortune; to read them all, impossible. We reprobate the tyrant of old, who, with a view to entrap his

subjects into offences, wrote his laws in so small a character, and hung the tables up so high, that it was difficult to read them accurately: our courts always act on the maxim "*ignorantia legis neminem excusat*;" and yet we forget, that a large portion of our own jurisprudence—the oral or unwritten law which is said to reside in the breast of the judges—is absolutely inscrutable by any one; and that the rest of it is, from its bulk and confusedness, inaccessible and unintelligible to ordinary readers. But it is not only for the purpose of affording the community at large some chance of learning the rules of action by which they ought to regulate their lives, that a code has become so absolutely necessary; it is also indispensable to the due administration of justice. In a former article, on the County Courts' Bill, we have shown that, in the present state of our judicial establishment and modes of procedure, by far the larger proportion of the people are absolutely excluded from our courts of justice, and that the inconvenience could not be effectually remedied without a different organization of the system, and the establishment of local tribunals. But the framing of a code seems to be almost an indispensable preliminary to any such plan of improvement: for though twelve judges, living together in the metropolis, and proceeding periodically thence to their respective circuits, preserve something like an appearance of uniformity of decision, even in the present state of our jurisprudence, it would be difficult, if not impossible, that this should be accomplished by local judges, who would have no intercourse with each other. We hail, therefore, with satisfaction, any approach towards the formation of a code, although, in the present state of opinion among our lawyers, and the ignorance of the subject which unavoidably prevails among the rest of the community, we have little hopes of seeing any thing like a systematic body of laws, adapted to the wants of the public. Without discarding the relics of feudal institutions, the barbarous nomenclature and frivolous distinctions of the middle ages, we can make but slight approaches towards a generally useful and intelligible manual of jurisprudence.

Something, however, has been gained, if, notwithstanding the prevailing habit of indiscriminately eulogizing existing institutions, a minister of the Crown admits

that all is not right, and makes the first approaches to a better state of things. It is something, to collect and arrange the scattered members of our confused statute book, and to place in available order those materials for a code which we possess in greater abundance than any other nation. By this commencement alone, Mr. Peel has secured to himself, if we mistake not, a more certain and durable celebrity than the "heaven-born minister" with all his wars and all his prodigality.

The commencement which has so successfully been made in consolidating the statutes relating to customs, juries, and bankrupts, might be speedily carried on through all the various heads under which our acts of parliament may be classed, and carried on with the consent and approbation even of those who would view with horror any attempt to reconstruct the great edifice of law. Commissioners might be appointed, one or more to each of the divisions which our laws at present recognize, who might simultaneously collect, arrange, and compress all that is to be found within their respective departments. From the statute they might proceed to the common law, and deal in the same way with all those decisions which have established principles now recognized by our courts. These might be amalgamated with the new statutes, and rest for the future on the firm basis of legislative enactment, instead of remaining in the shape of mere opinions, which every judge in succession is at liberty to abide by or overrule, as may suit the interest or inclination of the moment. To the statute book thus compressed and arranged, a standing commission might every year add, in their proper place, such new decisions as involved any principle of general importance.

What has been accomplished by the consolidation of the statutes concerning juries alone, may be seen in Mr. Peel's speech\*.

—Enactments scattered through nearly 400 acts of parliament have been brought together and arranged in one statute: The burthen of serving the office of juror has been more extensively and more equally distributed: and, with a view to impartiality, the mode of nominating special jurors has been assimilated to that by which common jurors have always been appointed—that is, the numbers of

\* *Ante*, p. 556.

any given special jury are to be taken by chance out of the whole number of persons liable to be called on for the occasion in question. When it is considered that the main use of a jury is to operate as a check upon the judge, it will scarcely be believed a few years hence, that in the only class of cases in which the integrity of the judges could be open to suspicion, namely, the trials of political offenders—the Court of King's Bench established and upheld the practice of selecting the jurors by an officer appointed by the court.—We say *established*, because till within a few years, Mr. Lushington, the officer of the court whose business it was to attend to the nomination of juries in such cases, had been by his own admission in the habit of nominating them upon a principle of chance; viz. by sticking his pen at random into the leaves of a book containing the jurors' names, and taking the juror whose name was nearest the point of the pen. This mode, which had long been in use, and which, as we have said, he had himself practised for many years in the nomination of special jurors for civil cases, he chose to depart from in a series of political trials for libel, which commenced about the year 1817, and without assigning any other reason for discontinuing the old practice, than that it occasioned him trouble, he proceeded in lieu thereof to select the jury arbitrarily, without assigning any reason for adopting one man or rejecting another.—His conduct being complained of, the Court of King's Bench decided twice, (*Rex v. Wooler*, 1 Barnewall and Alderson's reports 193; and *Rex v. Edmonds*, 4th vol. of the same reports 484) that the officer of the court had a right to select, and that it would be contrary to all precedent and example if he should take the names by some mode of chance!—

Far be it from us to say that the officer did or would abuse this power; but we assert that under these decisions he had the power of packing, and to this power we object, as subversive of the very end of juries. To what an extent a corrupt officer might have abused this power may be conceived, when it is stated in the report of a committee appointed by the common council of London to inquire into this matter, that a considerable proportion of the special jurors who usually served, were needy persons, whose

livelihood depended upon the number of causes they could be appointed to try. Let them but dare to give one verdict against the crown, it is obvious they could never be appointed again by an officer, who could not be convicted of corruption as he never assigned reasons for adoption or exclusion. It is no slight proof of the magnanimity and integrity of Mr. Peel, that he has renounced this pernicious power of packing, so hardly and successfully established for the government, by the Court of King's Bench; and now that we have been relieved from the usurpation, it is difficult to avoid smiling at the difference between legislative and judicial wisdom. In *Rex v. Dolby* (2 Barnewall and Cresswell's Reports, III.) Abbott, C. J. says, "Our common law acknowledges no such absurdity as taking by chance and hazard the persons who are to discharge the important duties of jurymen." The learned Chief Justice seems to have forgotten that common jurors have never been taken in any other way, and as they have to determine an infinitely greater number of causes than special jurors, their functions must, in any view which comprehends the greatest happiness of the greatest number, be the more important of the two. The possibility of getting upon the jury one or two persons who might be strong partisans on either side, is a thing unavoidable under any impartial plan, which can be no other than some modification of a system of chance. His lordship also forgot, that with regard to special jurors at least, the law had provided for this inconvenience, and had excluded the possibility of any absurdity, by allowing each party to strike out twelve of the forty-eight first appointed; so that the interference of the officer of the court was as unnecessary as it was open to abuse.

However, be this as it may, that which it suited the views of the King's Bench to brand as an absurdity in 1823, the Secretary of State for the Home Department makes the object of a special and deliberate enactment in 1825.

We shall conclude our very summary observations with a few remarks on the manner in which the present act has been framed. It would perhaps be impossible to devise a style less adapted to the purpose of legislative precision, than that of English acts of parliament. The framers of them seem not to have known

enough of language or logic to perceive that a general term renders unnecessary the employment of any particular terms included in its meaning; and instead of securing themselves by a careful selection of generals, have endeavoured to attain something like certainty, by a profuse mention of particulars. This not only adds enormously to the length of the statute book, but occasions the very uncertainty it was proposed to avoid; inasmuch as no human memory can be relied on to exhaust all particulars, and where many are specified, the omission of some must always be deemed intentional. The framer of the present act, being a lawyer, has not ventured entirely to depart from the old model, in this particular; probably, not wishing to incur the ill opinion of the judges before whom he practises: but he has to a considerable degree curtailed the pleonasm of his predecessors. In another respect, however, he has closely followed their ill example, and has made his statute, like all others, one long sentence from beginning to end. Unless obscurity and confusion be the object in view, it is impossible to assign any good reason why every statute should not be split into numbered and titled divisions and subdivisions; as in the present case, 1. Jurors, who may be, and who not.—2. How, and when placed upon the list. 3. How chosen for trials. 4. How paid; and so on. Even the conveyancers, the most inveterate adherents to ancient forms, have adopted the practice of dividing long deeds of certain descriptions, into numbered articles. It is to be hoped, the legislature will at length follow the example, and by so easy an alteration, give us some little assistance towards comprehending and referring to the increasing loads of statutory law.

### *Bills to prevent Cruelty to Animals.*

THIS is a subject on which it is of some importance that men's minds should be settled. Probably, for some time to come, it will continue to be brought, at different intervals, before the legislature and the public. It is desirable that the cases which differ essentially from each other, (and it includes several such cases), should be discriminated; that the true principles of legislation should be ascertained; and that the public feeling should be directed into the proper channel. Mr. Martin is actu-

ated, we do not doubt, by benevolent motives; but nothing is so mischievous as blind benevolence: cruelty, the most dreadful and extensive, often has its source in humanity; and even ambition and tyranny are scarcely more injurious to society than active philanthropy without wisdom. Whenever, therefore, the adoption of any thing affecting the condition of a large number of sentient beings is proposed, as a matter of benevolence, it is necessary that its nature and tendency should be investigated with peculiar care. There are persons whose sanction is sure to be obtained to almost any object, by the mere name of benevolence. Because a measure is projected from motives of humanity, they consider it unnecessary to examine into its real and practical operation, and seem to apprehend that the best proof which they can give of the kindness of their feelings, is to neglect the exercise of their judgment. It would be easy to shew the evils which result from this ill-regulated impulse, by a reference to several of our popular institutions, the tendency of which to effect good is now pretty generally doubted, but which are still allowed to continue in operation, and which were once the subjects of great and almost universal praise. There are few topics more obnoxious to this *misleading* influence, than that which we are about to examine; and it is for this reason that we propose to investigate it with some strictness. In pursuing the inquiry, we shall first consider certain principles which we deem fundamental; we shall next show that these principles afford a guide for the course which ought to be pursued by the legislator; we shall then try, by the standard formed by these principles, the various measures which have been proposed; and, lastly, we shall examine, by the same test, what has been advanced on the subject in parliament.

In the first place, it will be conceded that man has, to an unlimited extent, the power of appropriating the brute creation to his service, and that, to a great extent, it is expedient (we may say necessary) that this power should be exercised to the destruction of animal life.

The truth is, that the destruction is necessary to the preservation of animal life. This is a general law; and in the necessity which is imposed upon man by the very constitution of his nature, of de-

prising other animals of life in order to preserve his own, he differs in no respect from the animals on which he feeds. From man downwards to the very bottom of the scale of being, one class is made to furnish food to another; that to a third; the third to a fourth, and so on; and unless the second destroy the third, and the third the fourth, all must perish. Those animals which appear to live on vegetable matter, afford no real exception to this rule: for they destroy myriads of small, whereas the former destroy a few large animals.

It will not, perhaps, be so readily conceded, but it is a point equally indisputable, that brutes have no rights. A right is, in effect, a power conferred on an individual, or individuals, by the body politic in which they live: it implies a corresponding obligation on the part of some other individual, or individuals, to render a service, or abstain from doing an injury, to the individual who possesses the right; and, we may add, will and power on the part of the body politic to enforce the observance of the obligation.

Now, as we set out by shewing that man has an unlimited power over the inferior animals, and that it is absolutely necessary that he should, to a considerable extent, exercise this power to their destruction, it would be as absurd to say that he is under any *obligation* to render service, or abstain from doing injury to a brute, as it would be augury to confer a right which the brute has no means of enforcing.

That man often finds it to his own *advantage* to render service or abstain from doing injury to brutes, is another thing; and this brings us at once to the principle which ought to guide the legislator in these matters, viz. the advantage which man may derive from his interference, or the disadvantage he may suffer from non-interference. That there are instances in which it is expedient, for the sake of man himself, that the legislator should restrain and modify the exercise of many of the powers which man originally possesses, is perfectly clear; but it is now admitted as an equally clear principle of legislation, that he ought not to interfere with the exercise of such powers unless he can shew the interference to be productive of advantage either to the individual or to society at large.

Here, and here only, the legislator is on solid ground: yet this principle has not

hitherto been recognized; and it is singular that every attempt at legislation on this subject which has hitherto been made, has proceeded on the very opposite assumption. Every positive enactment, every one of Mr. Martin's bills; almost every thing which has been said upon the subject in parliament, proceeds upon the principle that the legislator is quite within his province, and is performing a function which strictly belongs to him, when he legislates for the protection of brute animals, and when he contemplates their good alone. We maintain that all legislation on this principle is absurd and vicious; that the constitution, or the protection of the rights of human beings, ought to be the sole object of human legislation; that no reason can be assigned for the interference of the legislator in the protection of animals, unless their protection be connected, either directly or remotely, with some advantage to man; and that, therefore, that advantage constitutes the real and the only ground for the legislator's interposition.

In the exercise of his power over the brute creation, do, then, any cases occur in which a man may so abuse that power as to injure the community of human beings?—is the abuse of such a nature that the legislator can check it?—and, lastly, is his interposition the best remedy for the evil? Before he can interfere, an answer in the affirmative must be given to each of these questions.

Let us make the application of these principles to the various cases in which the interposition of the legislator, for the protection of animals, has been deemed proper: as we have already said, they will serve as a test to ascertain whether any such cases really exist; and if so, they will enable us to discriminate them in a satisfactory manner.

Now all the cases in which the philanthropist can wish to interfere for the protection of animals, or in which it can possibly be supposed that the legislature ought to do so, may be arranged under four classes:—1. Cases in which animals are made to suffer, or are deprived of life, in order to furnish food or raiment to man.—2. Cases in which animals are made to suffer, or are deprived of life, in order to afford amusement to man.—3. Cases in which animals are made to suffer, or are deprived of life from wantonness, or from the unrestrained indulgence of passion.—

4. Cases in which animals are made to suffer, or are deprived of life, for the advancement of science.

1. With reference to the first class of cases, those in which animals are made to suffer, or are deprived of life, in order to furnish food or raiment to man, it is singular, that no complaint is ever heard of the extent to which suffering and death are inflicted, although were all the suffering and death, resulting from all the other causes, added together, and multiplied a thousand-fold, they would not amount to a tithe of that which arises from this single cause. It is computed, that for the supply of animal food for the city of London alone, there are annually slaughtered—of bullocks, 110,000; of sheep, 770,000; of lambs, 250,000; of calves, 250,000; of pigs, 200,000: independently of game of all descriptions, of birds of all kinds, and of fish. What then must be the amount of animals slaughtered for all the great cities of England, for all its towns and villages, for all the great cities, towns, and villages of all the nations of Europe; for all the cities, towns, and villages of the globe? Let it be considered, that this vast destruction of animal life, is a thing of as steady and regular occurrence as the succession of day to night; that in whatever other respects the habits of the various people of the earth may change, they never change in this; that as surely as the sun arises, and awakens the nations to the ordinary occupations of life, it summons these myriads of animals to suffer and to die. Yet of this amount of suffering and death, it never enters into the mind of man to complain. Since it is the means of affording subsistence to human beings, the utility—the absolute necessity of it is so apparent, that all men acquiesce in it, as the result of a general law which nature herself has ordained. Here then is a universal recognition of the power of man in this respect, and of the necessity of exercising it.

In furnishing the supply of food, there may indeed be an objection, and a valid objection, to some particular modes in which animals are secured, or in which, after having been secured, they are put to death. There are cases in which the suffering to the animal is certain, and the good to man uncertain and trivial. Such, for example, is the manner in which some animals are treated while yet living, in

order to render them more delicate, or more agreeable to the palate. Is it justifiable to inflict suffering, perhaps severe and long continued, with this view? It is probable that every well-constituted and enlightened mind will decide in the negative, and will particularly lament the infliction of all pain beyond the measure necessary for human subsistence. But how is the evil to be corrected? According to the principles which have been laid down, the legislator ought not to interfere, unless it is plain that human beings are injured, and that his interference is necessary to put a stop to the evil. It will not be easy to shew that any human beings are injured, either directly or remotely, by the practices here alluded to. They can only be injured remotely, namely, by the generation of a cruel disposition in those who are in the habit of inflicting this suffering. Could it be shown that these practices so corrupt the dispositions of such persons, as to render them bad members of society, that would be a good reason (as we shall show immediately) for the interference of the legislature: but the fisherman who is in the daily habit of pegging lobsters, does not manifest a more ferocious disposition than the butcher who is in the daily habit of cutting the throat of sheep; and if no other evil result to man can be suggested, that is a sufficient reason why the legislator should no more interfere with the fisherman than with the butcher. It follows that if the former inflict more suffering than is necessary, and the latter inflict only suffering which is necessary, the correction of the excess must be found elsewhere. It may be found—it can be found, only in education, and the consequent creation of a greater degree of reflection and susceptibility in the public mind. This is the only question which can possibly arise in reference to the first class of cases; and it is at once decided by applying to it the principle which has been stated.

2. The second class of cases to be considered, is that in which animals are made to suffer, or are deprived of life, for the purpose of affording amusement. Amusement is a good, not indeed so indispensable as nourishment, but it is nevertheless a good. Taking the good, therefore, at a certain amount, before the legislator restrains the power of man to procure this good, he ought to shew that



the amusement is attended with more than a corresponding amount of evil.

The evil to be apprehended to man in amusements derived from the suffering of brutes, is the production of an indifference to suffering in general, and of a consequent brutal and ferocious disposition, which may ultimately turn out the bane of society.

The amusements in question are chiefly of two kinds; field sports, such as hunting, shooting, fishing, &c.; and combats of animals, such as bull fights, bull and bear-baiting, cock-fighting, &c.

In field sports the attention of the sportsman is unquestionably drawn off in a great degree from the suffering of the animal by the ardour of pursuit, and the pleasures arising from the exercise of skill. It is difficult, however, to conceive how an educated person can avoid reflecting on the torments he occasions, and if he has reflected, it is still more difficult to conceive that his heart should not be hardened by persisting in the practice. Shooting is the least cruel of these kind of sports, and yet "whatever pleasure a man may take in the exercise, and the skill of this kind of sport, one would think he could feel no very enviable sensations every time he takes up his prey struggling in the agonies of death. His employment is then, if he has any humanity, to beat its head against the end of his gun, to release it from its torture: if he be indifferent upon that subject, he throws the agonizing creature into his net, there to welter in its blood, and to beat its broken wings against some former martyr of his sports, who lies there in the convulsions of death. These barbarities, however, are innocent, when compared with the refinements of cruelty which are practised in hunting. It is hardly possible to conceive any greater agony than that which is endured by a hare during a long chase. Flying, for hours together, before a whole multitude of its destroyers, having its ears pierced, and its heart distracted with the war-whoop of these savage pursuers, with a certainty that a painful death awaits it; exhausted with fatigue; incapable of proceeding, yet not daring to stop; convulsed in every fibre, and sinking under the terror of instant destruction, it is at length seized by its pursuers with savage exultation\*."

Another point ought also to be considered, before we can decide whether in the long run field sports are to be esteemed beneficial or pernicious to man. These sports avowedly engross, both in and out of the House, a great deal of the time and attention of a large majority of our legislators: but it may perhaps be questioned, whether a diligent pursuit of the fox, or a nice discrimination in pointers, is likely to assist a man towards acquiring that extensive knowledge, and dexterous application of principle, without which a legislator may do more harm than good. Pope, indeed, has described one statesman,

"Early at council, and at hazard late,  
Mad at a fox-chase, wise at a debate:"—

In general, however, it may be presumed, that an interest in trifles cannot but unfit the mind for serious exertion or acquirement, and it may be more than suspected that a devotion to field sports is the cause of much ignorant and mischievous legislation.

How far these sports can be enjoyed, or will be considered worth having, without the intervention of game laws, is a problem yet to be solved. If it should turn out that game laws are essential to the amusement, considering the amount of suffering, crime, and moral depravation occasioned by those laws, it may safely be pronounced that the amusement is purchased at a greater expence of human misery, than any amusement that the great have ever pursued, war not excepted.

But to whatever opinion we may come with regard to the effect of field sports upon the condition of man, there can be no doubt upon those cases, in which the sport itself, from its very nature, has a direct tendency to injure the dispositions of the spectators. That it is possible for such an exhibition as would commonly be termed a sport, to have such a tendency, is indisputable. It is certain, that whenever the spectacle consists in the mere exhibition of ferocious courage, it will have a pernicious effect on the human mind. The exhibition of two savage animals, which are excited to attack each other with the greatest fury until one or both perish, in consequence of lacerating and tearing each other to pieces; or the exhibition of several animals, which are incited to fall upon a single animal, in its own nature peaceful, until they worry

\* *Grosvett's Letters*, p. 300. Lond. 1798.

it into uncontrollable rage, cannot be witnessed by any human being without injury. No man, whose disposition has not been previously corrupted, can be present at such an exhibition for the first time without horror; and if he subsequently bring himself to view it without disgust, and even with interest, it is only by achieving a conquest over one of the most important and useful feelings of the human heart. Sympathy with suffering, whether witnessed in a brute animal, or in one of his own species, is the involuntary impulse of every uncorrupted human being in society: an impulse tending first to the security of other beings, and ultimately to his own; and which cannot be destroyed without rendering him in the highest degree degraded and dangerous. But all such exhibitions have a powerful and direct tendency to destroy sympathy with suffering: they produce with astonishing rapidity, and to a most alarming extent, hardness of heart. There never was a human being who witnessed them often, and with pleasure, who did not exemplify, in every situation in which he could exemplify it, cruelty of disposition. But a cruel disposition is blind: it makes no discrimination in its objects: its first victims may be animals, its ultimate victims are sure to be men.

In the debate on the second reading of Mr. Martin's bill, on Friday, March 11, Mr. G. Lamb gives an account, from Evelyn, of a bull-bait which took place in the time of Charles the Second. Evelyn states, that one of the dogs was thrown so high that he fell into the lap of a lady of rank in the second gallery. Two dogs were killed. The sport ended with the ape on horseback, "and I retired," continues Evelyn, "wearied with the filthy scene, which I had not witnessed for many years." Mr. Lamb then read an account of an exhibition of the same kind which took place in 1702, in the reign of Queen Anne. He states that he found the bill amongst the papers of the Vice Chamberlain of that day, who was one of the prime *beaux* of the court. The bill, which was headed with the Queen's arms, ran thus:—

"Anna, Regina. At the Bear, in Hockley-in-the-Hole, near Clerkenwell Green. This is to give notice to all gentlemen, gamsters, and others, that on the 17th of April, a bald-faced dog of Middlesex, will be matched against a dog of Cow-cross. A guinea each dog. He that

shows the fullest and finest game, and comes most clean to hand, wins all. And a great mad bull will be turned loose in the yard, with fire works all over him, and two or three cats tied to his tail. Also other varieties. A bull-baiting and a bear-baiting. Beginning at two o'clock in the afternoon. *Regina vivat.*"

Mr. Martin, on Thursday, Feb. 24, in moving for leave to bring in a bill, to prevent bear-baiting and other cruel practices, read an *affiche*, which he stated had been placarded throughout the town, and which was as follows:

"By the express invitation of several noble men and gentlemen of distinction.—Billy, the phenomenon of the canine race, and superior vermin killer of his day, having killed nearly 4,000 rats in about seven hours, will once more go through his wonderful career of destroying a proportionate number thereof, in ten minutes, at the Westminster pit, on Tuesday, March 1st, 1825. The receipts of the pit to be presented to the distressed widow of the late C. Dew, who was the owner of this matchless canine performer. After which a dog fight, a tarr loose match, with two dogs and two fresh badgers, a drawing match, and several bull dogs to be tried at the bear, before their departure for foreign climes. Billy can be matched to kill 100 rats against any two dogs in England, for 100 sovereigns. Doors open at seven, commence at half-past. Admittance 3s. each."

Now all such sports, as they are termed, bull fights, bull baiting, bear baiting, dog fights, cock fighting, and so on, are spectacles of unmixed barbarity: they have no redeeming qualities, or tendencies: they fix the contemplation of the spectator, and they attempt to fix it with pleasure, on what is purely savage, fierce, and ferocious. The human mind is so constituted, that in proportion as they succeed in this object, they must assimilate it to the qualities which it contemplates with gratification: to the disposition of the animals on which it gazes with delighted interest: the principle of association—that principle which influences so powerfully all the trains of human thought and emotion, and by which they are united together, would cease to operate, or would operate contrary to its fixed law, were it otherwise: but the operation of that law is as steady as the operation of the law of gravitation. And that the human mind can be brought to contemplate unmixed fierceness, and barbarity; that it can be trained to gaze with delight on the lacerated body of a living creature; on the effusion of its blood; on its convulsions and writhings, produced by intolerable anguish; that it can be brought to listen, with intense interest, to its howl-

ings of agony, is an ascertained fact. Even the most delicate females of a refined people, in a refined age, refined at least in the common estimation, have crowded to such spectacles, and contemplated them with intense interest. They have done so, and they do so still in Spain; and Spain affords an admirable illustration of the result we wish to point out. The same women who contemplate with delight, the savage spectacle of a bull-fight, regard as a gay and brilliant pageant, the immolation of human beings in an *auto da fê*. This exemplifies in a striking manner, the direct and inviolable tendency of such exhibitions. Animal suffering is witnessed, not only without horror, but with delight: by an easy and unavoidable transition, this cruelty to animals passes into cruelty to men, and precisely in the same manner, and for the same reason, that the ferocious spectacle of a bull-fight is contemplated with pleasure, the horrible exhibition of an *auto da fê* is looked upon as a splendid amusement.

In a note to Childe Harold, it is stated, that at the Spanish bull-fights, the wounds and death of the horses are accompanied with the loudest acclamations, and many gestures of delight, especially from the female portion of the audience, including those of the gentlest blood: that the author of Childe Harold, the writer of the note, and one or two other Englishmen, were, during the summer of 1809, in the governor's box, at the great amphitheatre of Santa Maria, opposite to Cadiz. The death of one or two horses, after having seen them before they expired gallop round the arena with their bowels trailing on the ground, satisfied their curiosity. "A gentleman present, "observing them shudder and look pale, "noticed that unusual reception of so "delightful a sport to some young ladies, "who stared and smiled, and continued "their applauses as another horse fell "bleeding to the ground. One bull killed "three horses off his own horns."

This is a faithful picture of the influence of such sports on human feeling, and consequently on human action. Here then is ground for the interference of the legislator: here is a sound principle on which he may interpose to prohibit such spectacles. They are injurious to human beings: they produce trains of feeling, and generate habits of action, which are

dangerous to the well-being of society: legislation therefore in exerting its authority to put them down, is in the proper exercise of its special and peculiar function. But then it is obvious, that its object is the protection, not of animals, but of men: did such spectacles produce noble, generous, and benignant feelings in the human bosom, instead of the opposite, it would be right not to prohibit, but to encourage them. On this principle, the legislator leaves out of his consideration, as he ought to do, the condition of the animals: good may result to some animals from the course he takes: but that, as far as he is concerned, is purely incidental, and neither is, nor need be, in his contemplation: it is the well-being of men, as members of the social state, and that only, for which he can attempt to make provision.

It is singular, that among all the members who took part in the debates on this subject throughout the last year, two only perceived this principle.

In the debate on Tuesday, March 11th, Mr. William Smith appears to understand it clearly, and seizes, as an illustration of his argument, the very fact to which we have adverted.

"With what severity of remark," he says, "did they find their countrymen, in all their books of travels, constantly speaking of the bull-fights of Spain—a sport which was as much admired by the higher as the lower orders in that country. They readily saw those faults in others, which they refused to correct in themselves. In his opinion, the habit of seeing bull-fights, had prepared the Spaniards to look without horror on an *auto da fê*. It was certainly a step towards that goal of cruelty. Hogarth had well described the progress of cruelty in a series of prints. The hero of the piece began his career by spinning a cockchafer, and terminated it by the murder of the woman whom he had seduced."

Now this is the exact and decisive argument, clearly and precisely stated.

In the same debate, Sir Francis Burdett stated this principle still more distinctly, as a principle. He is reported to have said—

"It appeared very strange that in the course of the discussion the most important part of the subject had been overlooked—he meant the injurious effect which such scenes had on the morals of society. Putting all other considerations out of view—considering that he was not legislating on a principle of humanity towards brutes, but for men—he could not avoid giving his support to the bill. The common law of England justified the principle of interfering with regard to any thing which had a tendency to injure the morals

of the community, and cruelties were on principle punishable by common law at the present moment. The object of the bill was merely to carry that principle into effect in those atrocious cases which shocked the public mind\*."

In these few words the true principle which ought to have guided the legislature is stated in a clear and scientific manner, and with the exception of that part of Mr. William Smith's speech which we have quoted, they constitute the only good sense, relative to this part of the subject, which was delivered in the house, in all the discussions that took place upon it, from the beginning to the end of the session.

There is then, at least, a distinction between spectacles of this kind and field-sports. It may be wise for the legislature to interfere with the one, and unwise to meddle with the other—it may be possible to check the one, impossible to interfere with success in the other; but that can be no reason for abstaining to do good, at least as far as it can be effected. Yet so completely have these two cases been confounded together, that not only did almost every member who took part in these discussions assume them to be analogous, but they even grounded an argument against all legislative interference on that very analogy. This, indeed, is the main argument on which the opponents of Mr. Martin make their stand. Mr. Peel urges it against him in the most triumphant manner, and seems to imagine that it is not only conclusive, but overwhelming.

"Why," says he, "should the hon. gent. stop at the ill-treatment of bears, and monkeys, and dogs? Was there more cruelty in baiting a bear than in hunting a stag? There was a difference, it was true. The bear was left in possession of all his natural means of defence: to qualify the stag for hunting, the horns were in the first place cut off. Then what did his hon. friend say to pigeon-shooting, where one gentleman would bet another gentleman a sum of money that he would kill more pigeons in a minute with a double-barrelled gun? Could any thing exceed the torment of trout-fishing? Why did his hon. friend give relief to bears, and dogs, and monkeys, and refuse it to hares, and foxes, and badgers? Was not this instituting a favoured class of animals†?"

Then, alluding to some provisions of Mr. Martin's bill, Mr. Peel states, that

"According to them, a magistrate who had slept upon a bed the night before, filled with feathers plucked from the back of a living goose—riding home from a fox-chase to dine upon crimped cod—

might take up, commit, or otherwise punish any person whom he might find engaged in fighting a domesticated animal, or otherwise ill-treating the same. This could never be borne. He objected to the bill because it tended to create a favoured class of animals. If the principle were good at all, it ought to be extended to all cases of cruelty. Let his hon. friend introduce a bill to prevent hunting, shooting, fishing, and other sanguinary sports, and then bear-baiting, and dog-fighting, and cock-fighting might fall within it. At present his measure was not one of equal justice."

This is abundantly sufficient to shew the confusion of ideas in Mr. Peel's mind: he is evidently ignorant of the distinction, the clear perception of which could alone guide him to a just decision. The proper answer to his argument it must be needless to state. Sir Francis Burdett alone seems to state the distinction clearly. He is reported to have said,

"That it was not fair to draw any comparison between field-sports and the sports (if they could be so called), which the hon. member desired to put down—that the former were conducive to health and activity—every faculty of the body being called into action in their pursuit: that the latter were merely spectacles of unminged barbarity—animals being set to tear each other to pieces for the gratification of a multitude who stood passively looking on: that these scenes were highly injurious to the morals of the community: that on this ground, putting all other considerations out of view—considering that he was not legislating on a principle of humanity towards brutes, but for men—he could not avoid giving his consent to the bill."

There is another, and a totally different ground, on which it may be proper for the legislature to suppress these savage sports. Such spectacles may be the means of bringing together, and of uniting for concert and co-operation, the bad portion of society. The thief, the robber, the murderer, may avail himself of them as affording convenient places in which to meet his associates; in which to plan future rapine and violence. He could not choose scenes more in unison with his purpose or with the means by which he aims to effect it. If experience show that these sports do really collect such people together, and that bad consequences result to society from their assembling in bodies, that is a sufficient reason why the legislature should interfere to prohibit such spectacles. Whatever might be the alleged purpose of any assemblage of people, that would be a sufficient reason to interdict their meeting. If stag-hunting, fox-hunting, coursing,

\* *Ante*, p. 550. † *Ante*, pp. 547, 548.

‡ *Ante*, pp. 548, 549. § *Ante*, p. 550.

fishing, were attended with this result, these sports ought to be prohibited for the same reason. This part of the subject then resolves itself into a question of fact: Is it, or is it not true, that the scenes in which these exhibitions take place, form the haunts of the villanous and the desperate, and that it is there they plan their future depredations on the community? On this subject Mr. Martin has collected a great deal of valuable evidence, and it is one of the very few points in which he is always sound and always logical. He states that he has conversed with every alderman of the city of London; with almost every police magistrate in the various districts of the metropolis, with many magistrates in different parts of the country; that from much conversation with them he has ascertained the conclusion to which their experience has conducted them: that their unanimous opinion is, that these cruel practices ought to be put down; that they have assured him over and over again that nothing is more conducive to crime than such sports; that they lead the lower orders to gambling; that they educate them for thieves, and that they gradually train them up to bloodshed and murder: that not only the magistrates of Westminster, but that ten to one of the magistrates throughout England and Ireland are in favour of the prohibition of these sports: that they are great authorities, and that their opinion ought not to be disregarded\*. Sir Francis Burdett also states, that the persons who join in these sports are the very nuisance of society, and that the neighbourhood in which they are pursued is the worst in the metropolis†. It is singular that this argument has never been met by those who take the opposite side. We have searched through all the reports of the debates on the subject from the beginning to the end of the session, with the special purpose of ascertaining what was said in answer to these statements. Not a single member made the slightest allusion to them. Neither the Secretary for the Home Department, nor Sir M. W. Ridley, nor Mr. Heathcote, nor Mr. Fyshe Palmer, nor any one of the opponents of Mr. Martin venture to meet him on this ground. There is only one reason for this silence; but that is satisfactory: they have nothing to say, and in this instance,

as if by a miracle, they are conscious of it.

Mr. Martin's argument is altogether unanswerable: it affords sufficient ground to justify and to require the interference of the legislature, to put down all sports of this kind, and not only such sports, but any thing whatever, by whatever name called, or for whatever purpose pursued, which is attended with such consequences.

Sports, then, which affect animals, so far as they form a subject for the consideration of the legislature, are of two different kinds: First, those from which advantage results to man, as amusement and exercise; and of which the disadvantages may seem to some questionable, remote, or not preponderant; such for example, as hunting:—with these it may be inexpedient for the legislature to interfere: Secondly, sports from which injury, appreciable and definable, does result to men; namely, those, the direct and necessary tendency of which, is to generate, in the spectators, cruel and ferocious dispositions:—with these the legislature not only may, but ought to interfere, because the chief object of government itself, is to protect the community from that violence, which is the immediate and certain result of cruel and ferocious dispositions. More especially ought it to interfere where such sports bring together the vicious part of the community, tend to confirm their vicious propensities, and facilitate the gratification of them.

The chief argument against the abolition of these degrading and savage spectacles, is, that it would be to put down the sports of the poor, while no attempt is made to interfere with those of the rich. One would think there must be something extremely plausible in this argument, for those who took the leading part in the debate, insisted upon it with an air of perfect triumph, and it appears to have imposed upon the rest: at least, not a single member, with the exception of Mr. William Smith, gave the slightest hint that he doubted of its validity‡. Thus Mr. Heathcote makes it the precise ground of his moving for the rejection of Mr. Martin's bill§. He maintains that if the bill were good for any thing, it would prevent cruelty in the upper ranks, no less than in the lower: that it would prevent hunting, shooting, and fishing: that it was impos-

\* *Ante*, p. 546.

† *Ante*, p. 550.

‡ *Ante*, p. 549.

§ *Ante*, p. 547.

able to make a law to prevent bear-baiting, and to leave stag-hunting uncontrolled: that they must, if they acted justly, interfere with the amusements of the country gentlemen: that the King himself kept stag-hounds; that many noblemen; that many honourable gentlemen in his view, had been seen attending the hunts: that they could not make one law for the rich and another for the poor: that there was no justice in the measure, and that he would therefore take the liberty to move, that the bill be read a second time this day six months. Mr. Peel argued in the same strain\*. Mr. G. Lamb maintained that the moment the sports of the lower orders were invaded, the observations of the rt. hon. secretary, relative to the sports of the higher orders, applied with a force that could not be answered†. Mr. Brougham too appears to have been carried away by the prevailing delusion; for though he did not take any part in the discussions during the last Session, yet he is stated by Mr. Martin to have complained on a former occasion, that he (Mr. Martin) meddled only with the sports of the poor, while he turned away his eyes from those of the rich; and to have declared, that if it could be shewn, that the nobility took part in these sports, he would join with all his heart in putting them down‡. Now, the short and decisive answer to all this, is—that the sports in question ought to be put down, because they are injurious to the community; injurious, in the two-fold manner which has been stated: that the accident that they are frequented by the poor and not by the rich, does not in the least change their nature: that were the sports indulged in by the rich, productive of evil to society, they ought to be abolished for that very reason: that the rank of those who pursue a sport is not the thing to be considered, but the influence of the sports on the community: that whatever is productive of evil, ought to be prevented, and for *that* reason, whoever attend it: that whatever is not productive of evil, ought to be allowed for *that* reason, whoever do not attend it.

In point of fact, the justice of the principle on which this reasoning is founded, has not only been recognised, but acted upon by the legislature. The amusements of the lower orders, actually are

under the surveillance of the police. It is justly stated by Mr. Wm. Smith, that the public-houses are not as open to the amusements of the poor, as the great taverns and assembly-rooms are to those of the rich. This is a distinct recognition, that amusements—and that amusements pursued by particular classes, may be interfered with. It is not, however, proper to say, that the amusements of the poor are interfered with; much less that they are interfered with, *because* they are the amusements of the poor. The correct statement is—that the meeting of certain classes of the people, in certain places, for the purpose of amusement, has been found by experience, to be productive of evil consequences to the public: that the meeting of other classes, in other places, for the purpose of amusement, has not been found productive of evil consequences to the public; and that, therefore, the former has been placed under control, while the latter has not.

3. The third class of cases to be considered, is that in which animals are made to suffer, or are deprived of life, by wanton cruelty; from the unrestrained indulgence of passion; or from malevolence. The infliction of suffering on animals wantonly; tormenting them for the mere purpose of tormenting them, is so alien to the human heart, that if there be any examples of it on record, they must be extremely rare. The propensity is not natural to man; there is no conceivable inducement why he should indulge it: all the instances of those who have done so (if any such exist) are probably cases in which the natural propensities are deranged, in consequence of imbecility or alienation of mind. Were it otherwise; were it an ascertained fact, that there are persons who take a delight in tormenting animals, for the mere purpose of witnessing their sufferings, it would be right to prohibit them from indulging such a propensity; for two reasons—first, because, as we have already shewn, by a fundamental principle of the human mind, cruelty to animals will be sure to produce cruelty to men: secondly, because were many persons allowed to commit such practices, their example would have a dreadful influence in vitiating the dispositions of those who witnessed them.

But the only subject worthy of consideration under this head, is the cruel treatment of animals, from the unre-

\* *Ante*, p. 548.

† *Ante*, p. 549.

‡ *Ante*, p. 546.

strained indulgence of violent passion, or of a brutal disposition. Violent passions and brutal dispositions are dangerous things: on whatever else exercised, they may be easily directed against the peace and happiness of men: to check their production and indulgence is one of the main objects of legislation itself; and therefore of course, it is legitimately employed in counteracting their generation and indulgence in any particular instance. If the unprotected condition of animals afford an occasion for the excitement and gratification of such passions and dispositions, it is proper that the legislature should interfere to alter the condition of animals—not for the sake of the animals, but in order to control dangerous dispositions and passions in men. Dispositions and passions which endanger the safety of the community ought to be controlled in this as in every other case. And that fierce and ferocious passions wreaked on brute animals are dangerous to the community of human beings, is certain, for the reason so often assigned—that these passions when once excited are easily directed against men, and are sure to be so sooner or later. Again, animals may be property; in that case, they may be protected against injurious treatment on the same principle as any other species of property. It must be admitted, however, that animals may be most cruelly treated—cruelly treated in the strict and proper sense of that word, because the suffering inflicted may answer, and may tend to answer no good object or end, without materially injuring them as property. In that case such injurious treatment may be prevented on the principle just stated, the pernicious tendency of the uncontrolled indulgence of the passions and dispositions which lead to its infliction, and the annoyance to the sympathies of unwilling spectators. Offenders in such cases in the public streets might fairly be punished as public nuisances.

Animals in which men have a property are, indeed, the animals chiefly exposed to cruelty, arising from the passion or brutality of those to whose care they are committed,—for example, drovers of cattle, and those who have the care of horses, more especially hackney coachmen. Now in reference to this class of animals the legislature has recently recognized and acted upon the principle here laid down;

and we are glad of it; first, on account of the distinct recognition of that principle, and, secondly, on account of the actual benefit which has already resulted from putting its operation to the test of experience. It appears that during the last year, one hundred and forty-four convictions for the cruel treatment of animals have been obtained under the act entitled “an act to prevent the cruel and improper treatment of cattle;” that these convictions have taken place chiefly among bullock drovers, but partly among those who have the care of horses, and who by furious riding or driving, not only injure those animals but also incur the hazard of destroying human life: that the success of these prosecutions in preventing the evil has been greater than it is possible for any one whose mind has not been turned to the observation of such matters to imagine: that of all the spots in the kingdom, that most disgraced by the repetition of barbarous cruelties, wreaked week after week on defenceless animals, was Smithfield market: that the scene there is now so much altered that it is hardly possible to recognize the same unfeeling class of men that used to be employed in driving cattle, and that some of the most respectable inhabitants of the houses which surround the market-place, have borne testimony to this fact\*.

For the law just referred to, the public is indebted to Mr. Martin, and it owes him much for it. By this act a penalty of not less than ten shillings, and not more than five pounds, is liable to be imposed upon any one who is convicted of wantonly and cruelly beating, abusing, or ill-treating any horse, ox, sheep, or other cattle; and according to the statement of the committee of the society for the prevention of cruelty to animals, the convictions already obtained under this act, have been so successful as to have completely changed the scene at Smithfield market. This testimony is satisfactory: it proves the beneficial operation of the act, it proves its adequacy to correct the evil. Mr. Martin should therefore have rested satisfied and not have attempted to do more; both because to do too much in legislation is worse than to do too little; and because the legislator who attempts to do too much, less-

\* See the first annual reports of the society for the prevention of cruelty to animals, instituted 1824, pp. 5, 6.

sens his power to carry into effect that which would be really useful. For his motion on Monday, March 24th\*, for leave to bring in a bill to amend this act, by making the offence a misdemeanor and leaving the punishment of it to the discretion of the magistrates at Quarter Sessions, he does not offer a single reason. The motion was rejected, and justly, on the ground that legislation on this subject had already proceeded far enough, and that Mr. Martin, if he could succeed in pushing it farther, would only weaken the effect of his former bill.

4. We come now, in the last place, to the consideration of a very interesting and important branch of this subject, namely, the infliction of pain on animals with a view to the advancement of science. Almost the only science in which it is necessary to make animals suffer, in order to ascertain any facts relating to it, is that of medicine; using the term medicine in its most comprehensive signification; and almost the only persons who actually perform scientific experiments on living animals, are members of the medical profession. Before the reader can have got to the end of the sentence which announces this fact, we should think it must have excited in his mind a train of ideas calculated to satisfy him that of all the suffering inflicted by man upon animals either directly or indirectly, this is the most justifiable.

In the first place, there is no science the interest of which can be compared with that which treats of the structure and functions of the animal frame. There is no other science which presents an assemblage of facts so curious, so wonderful, so calculated to convey to the mind the most real and valuable instruction, the most useful, nay, even the most indispensable knowledge. Fortunately, almost every thing which relates to the structure of the animal frame can be ascertained by anatomy, as well and even better, on the dead subject than on the living. However, with regard to the dissection of the dead body, the most absurd prejudices have prevailed from the earliest ages; and even at the present day, so violent are they, so active, and so successful, in securing their object, that it is with the utmost difficulty that the practical anatomist in this country can procure the means of pursuing his

investigations. The teacher obtrudes his course of instruction with the feeling of uncertainty, whether the means will be afforded him of demonstrating to his pupils what it is absolutely indispensable that they should know; and the student has advanced but a little way, before his studies are interrupted, and it is well if they are not terminated, at least for that season, by the want of a supply of subjects for dissection. This state of things is disgraceful to our age and country: the evils which result from it have lately been pointed out in so forcible a manner, as to have produced a very general desire in those who attend to such subjects, to see a remedy provided for them†, and an attempt will probably be made, during the ensuing session, to induce the legislature to sanction the remedy which has been suggested.

But though the structure of a part can be ascertained by the dissection of the dead body, and therefore without the infliction of pain, yet function cannot. Structure teaches nothing, or nothing with certainty respecting function. The structure of some parts has been long known, yet their function is not even yet discovered, and the function of other parts was observed from the earliest periods, while it is only recently that their structure has been demonstrated.

Physiology, or that science which treats of the functions of animal organs, is the science of life. It can therefore only be studied in the living body. It is intimately connected with Pathology—that branch of medical science which comprehends those derangements of function, and those changes of structure which constitute disease. Natural structure and healthy function must be known before diseased structure and deranged function can be understood. By the infliction of injury on certain organs of living animals, or by the removal of them from the body, great light has been thrown on what had hitherto been the hidden process of nature, both in relation to health and to disease. Experiments are also sometimes absolutely indispensable, in order to ascertain the best mode of performing capital operations; in order to discover how far such operations can be borne, and how far they cannot, and why they cannot; in order to observe the various processes which

\* *Ante*, p. 550.

† See Westminster Review, vol. xl. p. 59. Art. "Use of the Dead to the Living."



nature adopts to repair the injury inflicted on the different systems implicated in these operations—the knowledge of which processes is necessary to enable the physician and surgeon to moderate, excite, or stop them, according to the nature of the case. In all this there is not only the highest utility, but the lives of thousands of human beings absolutely depend on that clear and exact knowledge, which such experiments alone can afford.

As to the animals which are sacrificed in these pursuits, there is one short argument which must satisfy the most sensitive mind respecting their fate. If these animals were eaten, and thus became the means of sustaining human life, no objection would be made by any one to such a disposal of them: if then they can be made to save human life, without putting them into the stomach, what reason can there possibly be why they should not be so employed?

Still, however, the question will recur, as to the utility of, at least, some of the experiments which are constantly performed and repeated. We think we have already said enough to satisfy any reasonable mind on that point: but as it is a subject of much importance, on which it is very desirable that just opinions should be formed, and correct feelings cherished, we shall show by the relation of a few facts, not indeed the extent, but the kind of good which may be expected, and which constantly results from the institution of such experiments.

We must premise, however, that the question of utility is in reality widely different from that which a superficial view of it would indicate. What is the precise, we may say, the sole object of all experimental science? It is twofold: first, to put to the test the truth of something which is supposed to be ascertained; secondly, to make new discoveries. In physiology experiment is the only possible means by which either end can be accomplished. Nothing can be considered as *certainly* ascertained, which cannot be made the subject of experiment, and which does not answer to the test. Nothing can be considered as *certainly* discovered, which if it relate to structure, cannot be demonstrated; and if to function, cannot be proved by experiment. Now, if in this sense a principle be really ascertained, it will scarcely be denied that an advantage is acquired.

The discovery and establishment of a truth, is in itself a good. No matter what the truth is—no matter whether it be, or be not immediately applicable and applied to some object of practical utility—a truth ascertained is an accession to the common stock of knowledge. No one can tell the importance of a principle when it is first discovered: no one can form a just estimate of its value: no one can ascertain the magnitude and variety of the applications of which it may be capable. A principle destined to produce vast and beneficial ends, may be thoroughly known for a long time, without effecting the slightest benefit. Its actual application to useful purposes may depend either on its combination with some other principle not yet discovered; or on the detection of some circumstance, perhaps extremely slight, not yet perceived; or on some mind, having certain faculties highly developed, devoting its attention to the subject. In either case, however capable a subject may be of producing benefit, it is obvious that it will really accomplish none, until all the circumstances which we have supposed take place. When the properties of the ellipse were first discovered, it was perceived that an important principle was ascertained; but before it could produce any beneficial result, it was necessary that a mind should arise not only capable of perceiving that it might become a mental instrument of great value, but of discriminating its precise powers, and of applying them to the accomplishment of its peculiar uses. That mind was Newton's: he saw what the instrument was capable of effecting, and perceived the proper mode of using it: and with a precision and certainty which has excited the wonder and admiration of all succeeding ages, he explained by its means all the phenomena of the heavenly bodies, and established the laws which regulate their movements. The existence of steam had been known for ages and its great power had been long observed; but it was not until the ingenuity of Watt embodied and fixed it, and made it the spirit of that mighty engine which has produced, and which is constantly producing such stupendous effects, that it was the source of any real good. Many isolated facts relative to the circulation of the blood were known previously to the time of Harvey. At length Fabricius, the preceptor of Harvey, dis-

covered the valves of the heart: but there the discovery, as far as the preceptor is concerned, stopped. What then was the use of it? It excited the spirit of inquiry in the pupil, who reflected, and reasoned, and examined, and at last discovered the true office of the valves, and thus demonstrated the course of the circulation of the blood. That moment every body saw that a most important truth was discovered. But when, in what manner, and in what degree did it actually benefit mankind? In no manner—and in no degree for ages afterwards. Astonishing as it may appear, not a single application of the knowledge of the circulation of the blood, attended with any appreciable benefit, took place from the period of Harvey to that of John Hunter. Men talked about it and reasoned upon it: it exercised a vast influence over their conceptions and their language; but, if previously to this time any one had asked to what useful purpose it was applied, it would have been impossible to have stated any. To that profound physiologist belongs the honour of making a grand application of it. He observed the almost uniform failure of the common operation for aneurism. This led him to think of the cause of the failure. Aneurism is a disease of an artery, in which its coats become so weakened that it is incapable of resisting the current of the blood; the consequence is, that the artery dilates and forms a tumor: this tumor gradually increases: its *parietes*, or sides, become thinner and thinner. At length they can make no further resistance to the force that distends them from within: the tumor bursts, and the patient generally perishes from hæmorrhage. To prevent this fatal termination, surgeons were in the habit of cutting down upon the diseased artery, and applying a ligature around it just above the tumor. This operation constantly failed. Why, said John Hunter, does it fail? Probably, replied he, because a ligature applied in that situation is applied around a diseased artery. Suppose then, continued he, pursuing the train of reflection into which he had got, there be an aneurism of the artery situated in the ham: what would be the effect of applying a ligature around the main artery of the thigh soon after it issues out of the pelvis? Without doubt that would effectually take off the current of blood from the artery in the ham:

but would it not, also, as effectually deprive the whole limb, both the thigh and the leg, of the requisite quantity of blood, and would not the consequence be that the member would perish from mortification? I do not think it would, said this reflecting anatomist; because I observe that the artery gives off numerous, and large branches, above the place at which I purpose to apply the ligature: and I know, according to the laws of the circulation, that if the current of blood be stopped in one direction, it will flow with greater impetus in another: that if it cannot find a passage through the main trunk, it will seek one through the collateral branches. I suspect that these branches will themselves enlarge, in consequence of the quantity of blood which must flow through them; that thus they will accommodate themselves to circumstances, and afford to the limb a sufficient supply of nourishment. So satisfied was he that this reasoning was founded on just physiological principles, that he boldly cut down on the main artery of the thigh, and placed a ligature around it, in order to cure an aneurism seated in the ham. The success of the operation was complete. The ligature being applied around a healthy artery, its sides united and no hæmorrhage followed: though the blood was prevented from flowing through the main artery of the limb, yet a sufficient quantity for its nourishment continued to circulate through the collateral branches: that operation which before almost invariably failed, was now attended with almost uniform success; the preservation of hundreds of lives was the immediate consequence, and hundreds of lives continue to be saved by it every year. Here then is a striking illustration of the manner in which a principle known for ages, but applied to no practical use, may ultimately become the means of preserving life to an incalculable extent. Because a principle is not immediately applied to some beneficial purpose, to imagine that it is therefore useless, is an ignorant and childish notion. That which is unapplied, and therefore unproductive now, may speedily be the means of producing to vast numbers, benefit the most inestimable.

In examining the question of utility, it is essential to bear these considerations in mind; but they do not constitute the most important part of the subject. The usefulness of experiments on living ani-

male does not rest on prospective and possible advantage; the good which results from them is often, not only great, but direct and immediate. From the experiments of Magendie on the *nuxvomica*, has resulted a valuable remedy in paralysis of the extremities, arising from disease of the spinal marrow. From the experiments of Dr. Edwards, of Paris, has resulted the clear and complete elucidation of, at least, one fact, the knowledge of which will be the means of saving the lives of thousands of human beings. Among all the experiments which have been instituted, either in ancient or in modern times, we are not acquainted with any which have been conducted in a manner more truly scientific, and which have led to results more interesting and important, and the evidence of which has been adduced with more clearness and precision, than those which have been carried on by this distinguished physiologist. By evidence the most lucid and decisive, he has established several facts, relative to the most important functions of the animal economy, the establishment of any one of which would formerly have been sufficient to have handed down the name of the experimentalist with honour to posterity. But our present concern is only with that part of his experiments which relates to temperature. It had formerly been supposed, that the power of generating heat in young animals was great. This notion, not founded on any positive proof, was, however, supported by several reasons which appeared plausible. The generation of animal heat, was conceived to be essentially connected with the circulation of the blood; the more rapid the circulation, the more intense appeared to be the heat. Now in young animals the circulation is extremely rapid; rapid in proportion to their youth; the inference, therefore, seemed obvious, that the younger the animal, the greater is its power of generating heat. This plausible reasoning produced that conviction in men's minds, which ought only to have been the result of positive proof. That conviction became universal. The application was immediate. Young animals, it was said, having a great power of generating heat, will be invigorated by cold; expose them then to the cold air, plunge them into cold water; that power of keeping up a continual fire within them, with which nature has endowed them, will

secure them from injury, while the cold will strengthen their constitution, render them hardy, robust, and vigorous, and afford them the best possible protection against the bad effects of the changing and chilling temperature of these northern climes. This advice, which the eloquence of Rousseau, supported as it was by professional authority, rendered it fashionable to observe all over Europe, was pregnant with danger. The notion on which it rested is a complete delusion. This has been ascertained in the fullest manner by the physiologist to whom we have alluded. In the course of his experiments, Dr. Edwards observed that warm blooded animals differ from each other in a remarkable manner, in the power they possess of generating heat; that some, if exposed to the air in spring, or even in summer, will speedily become nearly as cold as vertebrated animals with cold blood; that others in the same circumstances, will preserve a constant heat, considerably above the temperature of the surrounding air; that all animals born with the eyes closed, belong to the first, and all born with their eyes open, belong to the second class; but the most singular fact, and that which is of most importance to observe here, is, that the young of all animals whatever, or at least of all animals belonging to the class mammalia, uniformly have a temperature considerably less than that of their parents. After careful and accurate examination, Dr. Edwards ascertained that their temperature is always at least from one to two degrees less than that of adult animals. He found that the same is true in regard to man. Having ascertained the mean temperature of the human body, by observations taken on twenty adults, he examined the temperature of six infants, from a few hours to two days old; he found that their mean temperature was nearly two degrees below the mean temperature of adults. While prosecuting these inquiries, an opportunity occurred to him of observing the temperature of an infant born at the seventh month. At the time the observation was taken, the infant was three hours old; it was in perfect health, and was near a good fire. Its temperature was found to be nearly two degrees lower than the mean temperature of the six infants who had been previously examined, and who were born at the full period of gestation. This remarkable difference of

temperature, thus clearly ascertained, established two facts of great importance.

1. That infants have less power of generating heat than adults. 2. That the younger the infant, the less is its power of generating heat. The rapidity with which the temperature of young animals is diminished, and the extent of that diminution was ascertained by the following experiments. Two kittens, one day old, were exposed to the air of an apartment, the temperature of which was 11° of Reaumur. The temperature of the kittens when first exposed to the air was 37°; at the end of one hour and twenty-five minutes, the temperature of one of the kittens had fallen to 17°, that of the other to 18°; they had both become rigid, and nearly insensible. Four puppies, just born, having a temperature of from 35° to 36°, were exposed to the air of an apartment, the temperature of which was 11°. In the space of time included from nine o'clock in the morning to ten o'clock in the evening, their temperature had fallen to 13° 14'. They were so exceedingly enfeebled that they had nearly lost all power of motion. Symptoms of debility and suffering, began to appear almost immediately after their exposure to the air, and increased in proportion as their temperature fell. Similar effects were produced in young birds by exposing them to air of the same temperature, but in a still greater degree; because the power of young birds to generate heat is still less than that of the young mammalia. When these young creatures are on the point of expiring, in consequence of this exposure to the cold, they are reanimated with certainty and ease, by warming them before the fire, or by immersing them in a warm bath. Even when they are totally deprived of the power of motion, and appear quite dead, they are restored without difficulty by the same means.

These facts are of extreme interest and importance. Their application to practice is obvious, and the benefit which the knowledge of them is capable of conferring on the human race, can be estimated only by those whose profession has led them to observe the fatal effects of cold on infants and children. Instinct prompts mothers to keep their infants warm; but philosophers sometimes, as we have seen, by reasoning extremely specious, have urged them to depart from this principle, and persuaded them to endeavour to

strengthen the constitution, and to harden the frame of their tender babes, by exposing them to external cold. The observations and experiments of Dr. Edwards have at length set that notion at rest. No longer will such absurd language be held; no more will such perilous practices be repeated. The provision which nature has adopted for securing to the young of birds and of the mammalia a constant and equable heat, is wonderful. First, they are shielded from external cold by the closeness with which they are packed together, and kept in mutual contact in their nest: secondly, they are effectively secured from the agency of external temperature by that instinct which causes the mother constantly to sit over her young, and completely to cover them. Thus, incapable of generating the requisite degree of heat themselves, they are surrounded with an artificial temperature of nature's own providing, nearly as great as that of their parents. It is ascertained, by direct experiment, that young birds will perish in air the temperature of which is equal to the medium heat of the year: nay, that they will die from cold if exposed to the air, even in the height of summer. Observation shews that exposure to cold is equally fatal to the young of the human being. We ourselves remember two instances of infants who perished with amazing rapidity from sudden exposure to severe cold. They turned of a leaden hue: the circulation of the blood seemed suddenly to stop, and they expired almost instantaneously.

Dr. Edwards has certainly inflicted pain on a few frogs, and deprived some kittens of life, in pursuing the experiments which have brought these important facts to light; but there are hundreds of mothers, in all the nations of Europe, who will have reason to thank him for the preservation of their children.

Some exceedingly curious and important experiments have been made by Monsieur Dumas, of Paris, on transfusion. This operation, formerly not unfrequently practised, had long been laid aside as useless and even dangerous. It consists in transfusing into the veins of one animal the blood which is flowing in those of another. The extensive and important applications of which this process is capable, provided experience prove it to be at all practicable and useful, must

at once strike every reader; even though he should be less acquainted than usual with medical subjects.

The truth is, the operation sometimes succeeded, but oftener failed. Monsieur Dumas has had the great merit of establishing, by direct experiment, the precise circumstances which are essential to secure its success. He has shown that it is absolutely essential that the blood which is transfused into any animal should be taken from another animal of the same species; that, for example, to transfuse into the veins of a bird the blood of a lamb, would not only not benefit the former, but would be certainly fatal to it. He has discovered and assigned the reason. The blood vessels of an animal are adapted to the nature of its blood; but the nature of the blood differs essentially in animals of different classes. The red particles vary both in figure and magnitude in all the classes. We need look no farther, then, for the reason of the fatal consequences which result from transfusing the blood of an animal of one species into the veins of an animal of a different species; because, if innumerable particles of a large diameter are poured into vessels adapted only for particles of a small diameter, it is obvious that an impediment absolutely insuperable is opposed to the circulation, and consequently, that death must ensue. Great praise is due to Monsieur Dumas for pointing out this important circumstance, and great praise ought to be awarded to him for the clear and decisive manner in which he has conducted his experiments. Thus, he bled animals until all signs of life were at an end, until they were to all appearance quite dead, and absolutely irrecoverable by any means hitherto known. He then transfused into their veins the blood of healthy animals of the same species. They uniformly recovered from the state of apparent death; regained their former strength, and continued to enjoy their usual activity and health without sustaining the slightest appreciable disadvantage. These experiments are decisive as to the amazing power of the expedient. Its application to practice is obvious and direct. In cases of violent hæmorrhage, for example, we are led, by the closest analogy, to conclude, that it would be certainly successful. In that hæmorrhage, especially, which so often takes place in the puerperal state, and which is so frequently fatal,

were a portion of the blood of a healthy woman to be transfused into the veins of the exhausted and sinking mother, it is probable that life would be saved in numerous instances. Nay, this is no longer a mere conjecture: the experiment has been made in England, and with complete success. Apparently, without being at all aware of what had been done on this subject in France, in which country, indeed, no practical application of it, as far as we have heard, has yet been attempted, the operation has actually been tried by Dr. Blundell and others, in London, with a more decided and uniform success than could have been anticipated. No less than three successful cases of it have recently been placed on record. In all, life would have been extinguished in a few hours but for this operation: in all, the relief was immediate and most striking. In one case, the medical attendants were of opinion, that the woman could not have lived more than three hours: six ounces of blood were injected into the median vein of the arm: the patient immediately exclaimed (to use her own expression) that she felt as strong as a bull: after eight ounces more were injected, her recovery was complete: she declared that she felt herself well enough to get up and walk, and no bad symptom has supervened. In the last case, that of a lady of extremely delicate constitution, the wife of a member of the House of Commons, the powers of life were nearly exhausted from profuse hæmorrhage. All her medical attendants declared that she could not possibly have survived many hours; and that no other known remedy could have saved her. One of her physicians, and her apothecary, furnished to their patient each six ounces of their blood, which were injected by a syringe into her vein. From that moment her relief was decided: her recovery, though not so rapid as in the former case, has been progressive and steady. These cases, important as they are, form only one kind of application of which this remedy is capable, and are adduced merely as an example. Cases in which it would probably be highly beneficial must crowd upon every mind which is familiar with such subjects.

At the very time we are writing, Dr. Barry, of Paris, is engaged in a series of experiments, the application of which promises to be immediate and of high im-

portance. Having been led by some former experiments to conjecture, that absorption cannot take place in a vacuum, he performed the following experiment, in order to ascertain the fact. He carefully removed the hair from the outer part of a dog's thigh, so as to expose the skin. He then caused a venomous serpent to inflict in immediate succession on this portion of the dog's thigh, two bites. As soon as the wounds were made, he applied a cupping-glass over the part bitten, and retained it there nearly an hour. At the end of that period, the dog rose from the table, and walked with tolerable ease: he continued in perfect health, and not the slightest symptom of injury from the bites supervened. A pigeon was bitten by the same serpent, about an hour after it had twice bitten the dog: nothing was done to counteract the effects of the wound: the pigeon expired in agony and convulsions, twenty minutes after its infliction. If further experiments confirm the obvious inference suggested by this, there is discovered an easy and certain remedy for the bite of poisonous and rabid animals. Hydrophobia, that horrible, and hitherto incurable disease, will no longer hold in its appalling and destructive course. To put an effectual stop to this frightful malady, it will be necessary only to apply a cupping-glass over the wounded part.

Though obliged to touch so lightly on this part of the subject, we have said enough to shew the utility of experiments made on animals, with a view to discover and advance physiological knowledge. In these experiments, without doubt, many animals suffer pain, and some are deprived of life; but the consequence is the mitigation of human suffering, and the protraction of human life to an incalculable extent. To view with jealousy, suspicion, or dislike, those who pursue such researches, is highly unjust, and ungrateful; and to think of requiring the legislature to interfere with their investigations, is downright insanity.

But some persons who admit, that such experiments are proper and necessary, raise an objection to them on the ground of number. One or two experiments, say they, may be justifiable; but there can be no necessity for performing experiment after experiment of the same kind. The truth is, the number must be that, to whatever it may amount, which is neces-

sary to ascertain the point under investigation: whatever stops short of this, for the sake of economizing suffering and life, renders all the preceding expenditure of suffering and life useless.—Others, again, object to the repetition of experiments. When a point has been once made out, they say, it ought to be considered sufficient, and its truth admitted, without the infliction of further suffering. There is little reason to apprehend a too frequent repetition of such experiments. Most minds are so constituted, that they will be abundantly satisfied with testimony relative to such matters: but if a person wish to investigate them for himself, and to carry on the researches which have been commenced, it is absurd to suppose, that he is not to examine the accuracy of the statements of his predecessors.—The public exhibition of these experiments has also been objected to: by the public, being of course meant, an assemblage of persons, whose studies or professions render such investigations a matter of peculiar importance and interest to them. But if an experiment be performed before one hundred persons, that instruction is afforded by means of one animal, which it would require one hundred to communicate, were each to perform the experiment for himself in private. The proper method of performing the experiment, is at the same time shewn to every person who is present, and thus those who repeat the experiment for their own satisfaction, are prevented from inflicting much needless suffering.

On the whole, then, it must be evident, that experiments on living animals are indispensable; and that were they to be suspended, the consequence would be suffering and death to men, to an extent that cannot be estimated. So far is it from being necessary to call in the aid of the legislature to check investigations of this kind, or to apply any popular check to keep them within due control, that, on the contrary, a stimulus is required to excite professional and scientific men to pursue them with proper zeal and perseverance. They are naturally disgusting. The aversion they excite cannot be overcome, except by an ardent desire to gain knowledge, and to render it subservient to the welfare of mankind—a much more ardent desire than is commonly felt. Nor is there the slightest ground for the apprehension, that persons in whom such

a desire exists, will inflict unnecessary suffering. That constitution of mind which is alone compatible with the existence of such a desire, is invariably connected with a more than ordinary degree of talent: such talent as is usually accompanied (and real talent is in general accompanied) with a strong perception of the true relations of things: the moral excellencies of the heart, are in almost invariable alliance with the clear discernment of the understanding: wherever passion does not pervert the judgment (and here passion can have no existence) a man is generally benevolent in proportion as he is intelligent: there are few examples on record of a disjunction of goodness from wisdom: splendid attainments in philosophy have ever been, and ever will be, united with the mild, and gentle, and benignant virtues: the link which connects humanity with science, is seldom absent, and can seldom be broken. In the structure of the human mind, then, in the very nature of things, the public have a complete security, that men of science will not, and cannot be guilty of wanton cruelty.

It has been a source of peculiar satisfaction to us to observe, how distinctly and uniformly this has been recognised in all that has passed in Parliament. With the single exception of Mr. Martin, there is not a member who did not admit the necessity of experiments for the purpose of science, and disclaim all idea of danger, from allowing to scientific men the most unbounded licence. Even Earl Grosvenor, who, in the House of Lords, presented a petition from some foolish men, praying that a stop might be put to experiments on animals, states, that it must be acknowledged, that these experiments had led to discoveries highly beneficial to the human race: and particularly adverted to the experiments performed "by Bell, Brodie, and other eminent surgeons, in consequence of which the operations of tying the aorta, amputating the thigh at the hip-joint, &c. had been successfully performed."

Mr. Martin's ideas on the subject may be gathered from his attack on one of the most distinguished physiologists of the age. The absurdity of the charges which he brings against Dr. Magendie are paralleled only by their falsehood. He states that Dr. Magendie, in the course of last year, in one of the anatomical theatres

of England, exhibited a series of experiments so atrocious as almost to shock belief:

"He would not trust himself to express a further opinion upon this fellow's conduct, but would merely say that he looked upon those who witnessed it, without interfering to prevent it, almost in the light of criminals:" that "this Mr. Magendie got a lady's greyhound, for which he paid the sum of ten guineas—that he first of all nailed its front and then its hind paws to the table, with the bluntest spikes that he could find; giving as a reason for so doing, that the poor beast in its agonies might tear away from the spikes, if they were at all sharp and cutting:" that "he then doubled up its long ears, and nailed them down to the table with similar spikes (loud cries of hear, and shame):" that "he then made a gash down the middle of its face, and proceeded to dissect the nerves on one side of it:" that "he first of all cut out those nerves which belong to the sight, and whilst performing the operation, said to the spectators, 'Observe, when I pass my scalpel over these nerves, the dog will shut its eyes:' that it did so: that he then proceeded to operate upon those of taste and hearing: that after he had finished these operations, he put some bitter food on the tongue of the dog, and hallooed into its ear: that the dog repudiated the food and was insensible to the sound:" that "this surgical butcher, or butchering surgeon—for he deserved both names—then turned round to the spectators, and said,—'I have now finished my operations on one side of this dog's head: as it costs so much money to get an animal of this description, I shall reserve the other side till to-morrow. If the servant take care of him for the night according to the directions I have given him, I am of opinion that I shall be able to continue my operations upon him to-morrow with quite as much satisfaction to us all as I have done to-day: but if not, though he may have lost the vivacity he has shown to-day, I shall have the opportunity of cutting him up alive, and showing you the peristaltic motion of the heart and viscera (great disgust at this statement was manifested by the house).'"

Now there is not a single allegation in this exaggerated and ignorant account that is not false. What really took place is as follows—upon the strict accuracy of this account the reader may rely—we have received it from Dr. Magendie himself, and his statement is corroborated in every particular by those who were present. When Dr. Magendie was last in London, he was requested by Mr. Brodie, Mr. Mayo, Dr. Wilson Philip, and some other distinguished physiologists, to perform certain experiments, the fame of which had spread all over Europe, in their presence: he agreed to do so: he went to the theatre with the purpose of exhibiting these experiments to these physiologists alone; but when he came thither he found the

room full; and the persons present were, as he supposed, and as he still believes, members and students of the medical profession: the operations performed were two, namely, the section of the fifth pair of nerves, and the exposure and division of the anterior and posterior roots of the spinal nerves. The animals operated on were rabbits, guinea-pigs, and puppies: the operations lasted in all one hour, and were performed only on one day. The story of the greyhound is a fabrication from the beginning to the end. The dog operated on was a puppy: the experiment requires that the animal should be quite young, otherwise the vertebrae are too hard. The barbarities stated to have been practised on the dog, could not possibly have been inflicted, because they would have been fatal to the success of the experiment. Nothing whatever was done to the dog but the exposure and division of the roots of the spinal nerves: it was not kept alive after the operation: it was not operated on a second time, nor was there the least thought of subjecting it to a second experiment. The other animals operated on were killed soon after the experiment, in order to be dissected, that it might be ascertained whether the parts said to have been cut were really divided. Such are the facts. It is evident, then, that every allegation made by Mr. Martin is unfounded: the truth is, that he has been grossly imposed upon, and under the influence of the delusion practised upon him, he has calumniated in an unexampled manner a physician of whom Sir James Mackintosh says, that

"When he (Sir James) resided at Paris he was introduced to Dr. Magendie by their mutual friend Baron Humboldt; and being in a state of ill health, he (Sir James) was attended by Dr. Magendie as his physician: that it had been his misfortune to suffer much from illness, but that he always felt as a considerable alleviation of that misfortune, the genuine sympathy, the true kindness, the unaffected tenderness which he had constantly experienced from the able and intelligent medical practitioners whose advice he had sought; but that he was bound in justice, and he should be base and ungrateful if he did not state the fact, that he never had been treated amongst medical men with greater care and tenderness than he had received from Dr. Magendie \*."

In addition to this honourable testimony, that Dr. Magendie's character for tenderness and humanity had not been impaired by his professional pursuits,

given by Sir James Mackintosh in the house, the aspersions cast on this eminent professor, immediately called forth the following letter, from those of his pupils whom his great fame had called from Britain to attend his lectures. We transcribe this letter *verbatim et literatim* from the original copy—it is signed by 54 British physicians and surgeons, amongst whom are names the most distinguished both for character and science, of the present age.

Paris, ce 28 Mars, 1825.

MONSIEUR,

Quoique vous ne puissiez douter de notre grand respect pour vos talents, après la célébrité de vos ouvrages en Angleterre, et l'empressement que nous montrons à venir dans cette capitale profiter de vos savantes leçons, nous nous croyons appelés à vous en renouveler l'assurance en apprenant l'attaque si injuste qui vient d'être faite sur vous dans notre Chambre des Communes.

Les expressions nous manquent, Monsieur, pour vous peindre les regrets que nous ressentons à cet égard, et surtout lorsque nous contrastons cette conduite avec l'accueil flatteur et bienveillant que nous recevons ici de vous, ainsi que de tous les professeurs de vos Ecoles; car nous sentons bien vivement tout le prix de ces bontés, ainsi que des connaissances utiles et variées que nous puissions dans vos belles institutions, où la médecine et les sciences sont cultivées avec un si brillant succès, et dont nous emporterons chez nous un souvenir ineffaçable.

La seule consolation que nous éprouvons, Monsieur, au sujet de la calomnie dont on a essayé de vous noircir, c'est que l'accusation est si outrée et absurde qu'elle tombe d'elle-même, devant l'éclat de votre réputation, couvrant de ridicule celui qui en est l'auteur, et que plusieurs de nos sénateurs distingués ont élevé leur voix pour faire une juste réparation à votre génie, que vos belles et nombreuses découvertes en physiologie feroient placer par la postérité à côté de ceux de Haller et de Harvey.

Daignez agréer, Monsieur, ce faible tribut de nos hommages, et l'assurance des sentiments de la haute considération, et de la sincère reconnaissance, de vos très humbles serviteurs.

We have dwelt the longer on this part of the subject, because it seemed peculiarly incumbent upon us to avail ourselves of the present occasion to endeavour to remove the erroneous impressions which have gone forth relative to the moral feeling of those who are devoted to the cultivation of science, and whose constant aim it is to render science the handmaid of humanity. With respect, at least, to the distinguished individual whom Mr. Martin has so grossly abused, we have done this so completely, that we do not doubt, that Mr. Martin himself will feel regret that he has been in-

\* *Ante*, p. 548.



duced to give publicity to statements so utterly unfounded, expressed in language so extremely unbecoming. We believe Mr. Martin to be a man of honourable feeling, willing and anxious to make reparation for any act of injustice into which he may have been hurried. He must now be convinced, that he has misrepresented the nature of Dr. Magendie's experiments, and that he has applied injurious epithets to that gentleman's name. This he has done in the British House of Commons: he is bound, as a man of honour, to make reparation to Dr. Magendie in the same place, that there may be, at least, a chance that the corrective may extend as far as the evil has spread.

We have thus entered into a full consideration of all the parts of this subject: we have laid before the reader facts sufficient to enable him to judge of its merits for himself; and neither shall we have written, nor he have read in vain, if he rise from the perusal, with any error corrected, or any prejudice removed.

### *Game Laws.*

THE present state of the law, as far as the killing of game is concerned, is this:—The only persons (with very insignificant exceptions) who are permitted to kill game, are those who have estates of inheritance of the value of 100*l.* a-year; estates for a term of life or leases for not less than 99 years, of the value of 150*l.* a-year; and the sons and heirs apparent of esquires, or other persons of high degree\*. With respect to the consumption of game, it is by law confined to the persons who are authorized to kill it, and to those to whom they choose to give it. The buying and selling of game are both prohibited; even to persons qualified to kill it. The houses of unqualified persons may be searched, and heavy penalties are imposed for the mere possession of the sacred commodity by common beings.

In point of fact, the law of qualifica-

tions is seldom enforced to the letter, and seems, on all hands, to be acknowledged as an absurdity. The law is, indeed, absurd, if it is supposed to have reference to the wealth of the party; for no amount of personal property gives the right. It is absurd if it is supposed to refer to the possession of the land on which game is fed; for a freehold in the city of London is as good a qualification as an estate in Norfolk—it is absurd if it is supposed to have reference to rank; for the son of an esquire is often qualified when his father is not. An advancement in the scale of precedence may actually deprive a man of the qualification which he before possessed.

It is to be observed, too, as a consequence of this law, that the occupier of the land, or even the proprietor, has not necessarily a property in the game, or at least is not authorized to take it; and as a qualification by no means gives a right to enter upon land in pursuit of game, there is much of the surface of the country over which no persons can sport except by the permission of those who themselves are not authorized to do so. Besides this anomaly, as all penalties are unavailing without the means of procuring evidence, and as evidence cannot be procured against the unqualified occupiers of land, except by trespassing on their property, the law may be violated by them with impunity; and it is very likely to be habitually violated.

It may further be observed, as a consequence of this state of things, that an unqualified person, who has the misfortune to occupy land (even though he should own the fee simple) in the neighbourhood of a great preserve, may often be so overrun by these privileged vermin, as to lose a large proportion of his crops, and at the same time be wholly unable to protect himself from loss, unless he violate the law, and expose himself to the risk of a penalty.

This law, in fact, is used as a drag-net, from which those persons are selected who are deemed fit objects for punishment by the preservers of game. The persons upon whom its penalties are inflicted, are generally those to whom they are ruinous; and nothing exceeds the rigour with which the law falls on some of its victims, except the entire impunity with which the favoured class defy it. The enforcement of the law against those

\* All qualified persons must also pay a tax, and receive a certificate, before they avail themselves of their qualifications. By the way, no one is entitled to shoot any sort of game except *hares*. The penalty for every head of game shot, under the statute of James I., which remains unrepealed, is 20*s.* Thus, by law, every sportsman in England is a poacher;—so utterly despised are these laws by the rich, while they are so rigorously enforced against the poor.

whom the opinion of the country gentlemen does not denounce, is considered dishonourable. The occasional resort to it, as a means of petty annoyance against one another, is deemed justifiable or not according to the provocation which forced it. The instances of convictions of this kind, are just frequent enough to make it notorious to the peasantry that the law is habitually violated, under the sanction of those who figure most as game preservers. The notoriety of the constant disregard of the law, and the taking away the direct interest in game from the occupier, who would be best able to protect it, must manifestly unsettle the moral feelings of the people respecting it, and afford facilities for its illegal destruction, which exist in the case of no other property. But, as if this were not enough, the law prohibiting the sale, superadds an irresistible temptation, by preserving to the poacher the exclusive possession of the market for game, and enlists the opinion of the great mass of consumers in his favour, by making them indebted to him for the only supply of this luxury.

The number of persons annually incarcerated, is, on the average, 12 or 1300, for offences against the Game Laws. According to a return printed by order of the House of Commons, there were, on the 24th February, 1825, 581 persons actually in the several gaols of Great Britain, for these offences.

Great as this mass of punishment seems to be, it bears probably a small proportion to the mass of crime, for it does not seem in any perceptible degree to check it. In fact, the two parts of the Game Laws are acting in precisely opposite directions: while the penalties upon the taking of game declare that there shall not be poachers, the penalties upon the selling of game call the poacher into being, and give him the monopoly of an extensive trade. The business is carried on with so much facility, that one of the poulterers who gave evidence before the Committee of 1823, declared, that he could supply every family in London with game once a-week, throughout the year\*. A great deal is spoiled on account of the over supply at particular times, and this is the only drawback on its regularity. And while esquires rage against the poachers in the country, the

people of the towns are so firmly leagued in defiance of the law; the force of opinion is so powerful,—that notwithstanding the extent of the traffic, a conviction for buying or selling game, is almost unheard of; and the Act of Mr. Bankes, which made the purchase penal, made not the slightest sensation, and produced not the slightest interruption of the trade†.

The objects of Mr. S. Wortley's bill, of last session, were to abolish the law of qualifications; to make game the property of the person on whose land it was found; to allow him or any person authorized by him, and having paid the tax on game certificates, to kill it; and to allow it to be brought to market, and sold by persons licensed to deal in it. Powers were given in the bill for the summary apprehension and punishment by fine, of unauthorized destroyers of game.

It is evident from the outline of the measure, that it would remove altogether the absurdities of the law of qualifications, and put an end to the vexatious litigation that occasionally arises from this source. It would legalize the sport of those, who though they are now, according to the law, offenders, are not usually considered to be poachers. The second, and even the third sons of esquires, might sport *de jure* as they do *de facto*, on their father's estates. Who is there so barbarous as not to admit this to be an improvement? In a word, the habitual and necessary violation of the law on the part of gentlemen sportsmen, would end with such a law, and the necessity for the existence of the trade of poacher, would be also at an end. These points, whatever may be the doubts as to the general effect of the law, do not admit of dispute.

The trade of poacher is a necessary consequence of the present law, because the wealthy inhabitants of towns will have game, and because it can now be procured only by a breach of the law. "We are obliged," says one of the poulterers, in the evidence taken before the Committee, "to aid and abet the men who commit those depredations, because of the constant demand for game from different customers whom we supply with poultry. Some of the first people of the land require it of us‡." Just as evident is it, that if the proprietors of game might legally sell it,

\* Evid. p. 20.

† Ibid. p. 18.

‡ Ibid. p. 45.

the necessity for this constant violation of the law would not exist.

True it is, that it does not absolutely follow, that because poaching would no longer be rendered necessary by the law, that it would therefore be at an end. We may coincide that it does not absolutely follow that it would be diminished. But there is the highest probability from circumstances, of the last, if not of the first of these events. Undoubtedly some game would be sold by the proprietors. The poachers, it is said, would undersell them, because the cost price of a stolen commodity, is proverbially low. But the persons who raise this objection, forget the present state of the law, which forbids the proprietors to sell game at all. To those who are not among the few and discreditable interlopers on the poachers' monopoly, game is at present of no marketable value, and those who can afford to get nothing for a commodity, can sell it as cheap as those who steal it. Preserves might be made to pay in part the expenses of the keepers, and it would be as little discreditable to avail oneself of this resource, as to sell the surplus produce of a garden in a year of plenty. As far then as the competition existed between the proprietors of the actually existing preserves and the poachers, if no other change were made than the legalizing of the sale of game, the competition would be between persons who could get game without risk, and could sell it openly, and between those who could get it only at great risk, and sell it secretly, and at inconvenient seasons. The inconveniences, which are slight to those who enjoy a monopoly, would oppress the poacher if he had to meet the owner in the market.

The opinion that poaching would increase in spite of the competition of lawful dealers, is necessarily founded, on the supposition that there would be in consequence of the legality of the sale a very great increase of demand for game. But as there is no difficulty in getting game for money—as there is no difficulty whatever in buying it—as convictions for buying or selling, at least, in towns\*, are utterly unknown, and never contemplated, the consumption of it as of other delicacies is limited by the price. The price is now as low as the poachers can

afford to sell it at. The mere letting in of competition could not enable them to afford it cheaper. If the demand increased it would be in consequence of the cheaper price at which the proprietors could afford it, and instead of this increased demand in its effects increasing poachers, the cause of it would necessarily be the destruction of their race.

Besides an esquire, who can only afford at present to employ two keepers, might by the sale of game afford to employ two more; and the same covert which now supports two keepers and two poachers, might, by supporting four keepers, be rid of the poachers for ever.

We have spoken chiefly with reference to preserves. In the case of the game spread over ordinary farms, the probability of poaching under the new law would be still more certainly lessened; the game, become a valuable property in the hands of the farmer, its preservation would be intrusted to persons who could most efficiently watch over it. It is utterly incredible that the supply of an important article of food, supposing raising it and the sale of it to be perfectly legal, should remain in any considerable part in the hands of the thieves. It is more easy to steal poultry than to shoot pheasants: cocks and hens are occasionally stolen, but how insignificant a fraction of our markets is supplied with the product of this species of theft!

Mr. Peel, in the discussions on the bill, while he supported it, said, that it probably would not answer all the expectations of its friends; that it would probably put an end to poaching for the sake of game, but that it would not put an end to poaching for the sake of sport. Certain it is, that the vulgar, whether from an imitation of their betters, or of the brute creation, or from the predominance of the organ of destructiveness, find a certain pleasure in killing a hare, or any vermin which it is forbidden them to kill. The *carnifex animus* will occasionally break out, and offenders will be mulcted, especially till the right of property in game be clearly understood. But poaching, the sport, is quite insignificant compared with poaching, the trade,—insignificant in its effects on game, insignificant in its effects on morals.

It is well known to those who are

\* Mr. Stafford, the chief clerk at Bow-street, never heard of one.

versed in quarter sessions' practice, that complicated as the Game Laws are, and multifarious as are the penalties which they create, the great majority of the convictions takes place under one statute, the 57th Geo. 3, c. 90, which declares that if any person having entered any open or enclosed ground (a pretty large description) with the intent illegally to take or kill game or rabbits, shall be found at night, armed with any gun, bludgeon, or offensive weapon, he shall be guilty of a misdemeanour, and shall be sentenced to transportation for seven years, or such other punishment as may be inflicted on persons guilty of misdemeanour. It is obvious, from the description of this offence—from its frequency, notwithstanding the heavy punishment denounced against it—that the temptation which urges the peasantry to its commission, must be very different from the mere love of sport, which leads to the other violations of the Game Laws. Nothing, in fact, can account for the prevalence of it among men who do not wage indiscriminate war against society, but very strong pecuniary temptation, combined with very unsettled notions as to the rights which they violate.

It would be unreasonable to expect that uneducated men should entertain a high opinion of the inviolability of game under the present laws. They see that the property in it, is not in the person to whom the rest of the produce of the soil belongs, and out of the result of whose industry the game is fed. They see that the laws made for the preservation of game are daily violated by the wealthy. They find in the yeomen, their immediate superiors, a strong aversion to the pretensions of the privileged class, to whose amusement the game is, by law, dedicated. On the other hand, they find this property-no-property in great demand among people to whom it can only be supplied by their means; and they see that by taking it from the preserves in which it is stored up, they cannot possibly affect the pecuniary interests, and scarcely lessen the enjoyments of the possessor.

That these considerations have great effect in lessening the reluctance to commit the worst offences against the game laws, must be readily admitted by all who reflect that the actual teachers of the labourers of the country,—the yeomen, their masters, with whom they come in daily contact, are themselves in habitual

violation of these very laws. How different would the feelings of a labourer be if, in taking game, he knew he was robbing his employer of a saleable article, instead of being led, perhaps, by that very employer's example to think that there is nothing criminal in the act, that there is no disgrace in being suspected of it, or in being detected by any who cannot contribute to bring him to justice.

It must always be recollected, that the moral sanction, in order to operate upon a man, must be applied by his equals, or by those who are so nearly on an equality with him, as to be in habitual intercourse with him. The morality of classes is distinct, and individuals feel themselves at ease if they conform to the morality of the class in which they move. As among rich landholders a man often escapes censure though he has destroyed a family for the preservation of his game, it is not surprising that among day labourers few should be held in disrepute because they destroy game for the preservation of their family. Neither the one nor the other trenches upon the interest of his class. Game, therefore, by being made exclusively the property of the rich, is taken out of the protection of the poor, and of those who give the tone to the poor. But however poaching as a trade is generated, it is that which is the great evil of the Game Laws. If a blow be given to *that*, if the nightly assemblages of armed men, the conflicts with keepers, and the regular supplies of the gaoles, the hulks, and the gallows, which arise out of this trade, be put an end to, the mere poaching for sport, and the penalties which fall upon it, would be evils of very little moment, though even to these a measure which would make the occupier of the land the owner of the game, would go far to provide a check.

An objection has been raised to making game saleable, of a kind which shews the opinion which the gentry, for whose pleasure the law exists, must entertain of the sacrifices which are to be made for their gratification. If, they say, game were saleable, gentlemen would not think it worth their while to pursue it: it would become a base occupation to shoot a bird that might be openly bought or sold. Gentlemen would cease to reside in the country, and the country would lose the benefit of their services. This objection involves the assumption that the misery

and crime arising out of the Game Laws should be perpetuated, in order to give an artificial value to particular species of sport,—that nightly conflicts, daily demoralization, crowded gaols should continue, in order to swell into unnatural importance certain small birds and beasts, that the country gentlemen may think it worth while to shoot at them. It is difficult to conceive a more detestable assumption, a more flagitious claim: but happily, for the credit of sportsmen, it is not at all borne out by experience. It would be difficult for those who make this objection to tell what distinction to this purpose there is between that which is legally saleable, and that which is actually sold. But if the discrimination of the eldest sons of esquires were so nice as to consider the difference between bargain and sale, *de facto et de jure*, we have a case in point in woodcocks, which are more eagerly pursued by sportsmen than the half-tamed game of preserves, though they are openly and lawfully exposed during the season at every poulterer's.

In the discussion of Mr. Wortley's measure, considerable stress was laid upon the question whether game should be declared to belong to the proprietor of the land on which it is found, or to the tenant; and this difficulty may again present itself upon any future discussion of the subject. It seems, however, of little consequence how the matter is decided. If the proprietor of the land were also declared proprietor of the game, he might, if he chose, grant it to the tenant, with the other benefits of possession. If the tenant became in ordinary course of law the proprietor of the game, the landlord might, if he chose, deprive him, by special agreement, of this appendage of tenancy. The question really is, whether the game shall be in one case the subject of a special grant, or in the other the subject of a special reservation. In such bargains between landlords and tenants, it would not be wise to interfere, and it is only because we suppose that in the majority of instances landlords would wish to leave the game to their tenants, who can clearly reap the greatest advantages from it at the smallest charge, that we should incline to think it should be declared to belong to the occupier, unless specially reserved.

We think that it is clear that the alte-

ration of the law, proposed by Mr. Wortley, would put an end to the doubts and litigation on the right of sporting, and to the petty disputes on that subject;—that it would put an end to the necessity for the trade of poaching, and materially limit the crimes arising out of it, by furnishing a legal supply of game; by making the property in it better understood; by putting it under the guardianship of owners better able to watch it than the present ones, in cases where it is not preserved; and by supplying, in the case of preserves, the means of meeting the expense of a more careful custody. As to the apprehension which some have expressed, that the permission to sell game would tend to extirpate the breed, we hold it as unlikely as that the traffic in poultry should tend to exterminate the breed of domestic fowls: We have, indeed, a proof to the contrary in France and Flanders, where game though sold in the market is still so plentiful as to be scarcely dearer than poultry. But if it be contended, that the present system of law, with all its attendant evils, be necessary for the preservation of game, it is time to inquire whether game be worth preserving at such a price? It is necessary to ask ourselves what particular reason there can be for preserving a property, the existence of which is attended with so vast a quantity of human misery? Upon the supposition that the existing laws are enforced, game possesses no sort of exchangeable value. As an article of food its merit is unquestionable; but there is no one so entirely devoted to the pleasures of the table, as to be willing, in order to secure one, out of the many articles of luxury which are within the reach of the rich, to uphold a system to which thousands of men are annually victims. It is to be remembered too, that no system of law could hinder the rearing of game as an article of domestic luxury; least of all that system of law which would make it freely saleable; and that, at present, over and above the expense of the laws, the mode of preserving game is extremely expensive to the owners.

As, however, the end of all property is enjoyment, the enjoyment procured by the means of game in the shape of sport, is, so far as it goes, as much entitled to our consideration, as the increase of wealth or of food. But as the pursuit

and not the acquisition of game is really the object of sportsmen, it is quite absurd to suppose, that, in the disappearance of this or that particular species of animals, the human mind would be brought to the end of all possible amusement, and the country deprived of the services of a resident gentry. Fox-hunting supplies a ready resource, with this merit, that it is more social, and affords out of the same animal suffering an infinitely greater quantity of human enjoyment. It is difficult to weigh the misery of the poor against the enjoyments of the rich; but if the particular sport of partridge shooting cannot be preserved, except at the expense of 1,200 committals a year, it is not impious to wish that shooters were driven to change their mode of amusement. Whist is perhaps as intense a source of delight, to as great a number, as partridge shooting; but if it were the cause of 1,200 committals a year, it would not be too much to entreat the professors of it to play quadrille.

There are two arguments which are perhaps worth noticing. They were brought forward distinctly on some former occasion, by Mr. Lockhart (the member for Oxford), and they seem to have been referred to by some who took part in the last debate. It is urged, that there is no end to the concessions to lawless people, if the numerousness of those who violate the law be made a reason for its alteration; that the Game Laws are not the cause of crime, but its particular outlet at present, the stoppage of which would only drive offenders to some other crime.

We demur to the principle of morality, involved in the first of these objections; and we must deny that the fact alleged, is in any way warranted by experience. The principle is, that because violators of the law are entirely unworthy of sympathy, that their sufferings are not to be taken into the estimate of its effects. Upon this principle no law would be bad, for the miseries its penalties produced would count for nothing. Offenders are devils, whom the law creates to subject in any number to any degree of torment. We contend, however, that it is only by the comparison of good and evil that a law can be judged of, and that into this estimate the suffering of the offender must enter, as a part of the sum; that it is only for the sake of a greater pleasure

that pain should be inflicted. This is happily the doctrine upon which the civilized world agrees that the law ought to be founded, and immense as the moral and intellectual difference is between esquires and poachers, we must take into our account the groans of the one as well as the gladness of the other.

We deny, too, that experience warrants us in concluding, that there is a certain quantity of the matter of crime in the world which must find a vent in equal quantities, whatever may be the state of the law. One crime is not the substitute for, it is oftener the cause of another. There are many crimes, indeed, which arise out of the immorality or want of the people. There are others which are really created by the laws. Such are the crimes connected with smuggling; such are the crimes connected with the supply of game to those who by law are not allowed to have it, who by custom are obliged to have it, and who do get it without shame or stint. Now the Game Laws are peculiarly calculated to entice people into the career of crime. In the first place, the game is taken out of the hands of its natural protectors, and the whole opinion of society is set against obedience to the law. In such a state of moral feeling, the penalties are too unfrequently levied, to operate as a powerful check, and are perhaps, on that account, made severe enough, where they fall, to destroy the fortune of the poor man, or to make him the inmate of a gaol. Next, when he is thus far disgraced, the demand for game, and the prohibition of the sale of it by the proprietors, offering him the means of subsisting by the continued violation of the law, and last of all, the manner in which this illegal trade is pursued—in the night by bands of armed men,—prepares him for the commission of other crimes. The penalties which are inflicted for the lesser violation of the game laws are the balloting, by which the conscripts are supplied for the regular soldiery of poachers. This we should expect to be the fact, and there is abundant evidence to prove, that there are many persons who engage in the trade of poaching, who never would have engaged in any of the ordinary crimes against property. In the evidence taken before the Committee of the House of Commons in 1823, a detail was given of the detection of two gangs of poachers of

the most desperate kind. Of these, one had killed a man in a pitched battle with the keepers on the Berkeley estate; the other had fought with, and beaten severely Lord Howe's keeper. In both these cases, people much above the thieving level, were engaged with the poachers; farmers, shopkeepers, an attorney, or attorney's clerk. It may be said, that even an attorney may be sometimes a thief. But there are never villages of petty larcenars. In one of these cases, according to the testimony of the police officer, Bishop, who apprehended the offenders, the whole of the village from which they were taken, were poachers. It needs little reasoning to prove, that to produce such phenomena, either the law must be bad, or the moral education of the people detestable.

We shall say a few words on the bill proposed for the declaration of the law on the subject of spring-guns, and of the act which passed to make the stealing of growing produce felony.

The practice of setting spring-guns and other engines, calculated to inflict injury on trespassers, seems to have arisen out of the state of the law which denied to growing produce any other protection than that which was to be found in an action of trespass. As the law stood before the last session, to take away windfalls from under an apple-tree was felony, but to strip the tree itself of all its fruit was merely a trespass. No matter within what sort of inclosure, no matter at what expense fruit or vegetables might be produced, so they were not severed, they were a part of the freehold, and the taking away a part of a freehold was a trespass only. The trespassers, however, who were in the habit of taking liberties with their neighbours' apple-trees and cabbages, were generally people whom a homely proverb declares that it is unwise to sue\*. It was natural enough, therefore, for gardeners and others to wish to change their relation towards persons who would be as little dangerous as plaintiffs, as they would be unprofitable as defendants. This led to the practice of setting spring-guns and other engines of the same sort

in gardens. There is no doubt, however, that though it arose out of a defect of the law, that the use of these engines was quite unjustifiable. If by the law which enabled the planter of a cabbage to call himself the owner thereof, the stealer of the same vegetable was only to be assailed by a civil action, there was not the slightest justification for laying a train to shoot the should-be defendant in the posterior, or to lacerate the calves of his legs. There was this mitigation, however, in the case of gardens, that the spring-guns could scarcely ever take effect, except upon the persons for whom they were intended. Game preservers, however, who think every thing lawful, and who had not the same pretences as the possessors of gardens, since their property was protected by all sorts of adequate and over-adequate, and summary and anticipative penalties, took to the setting of these engines in places where they were likely to shoot their labourers and servants, and friends, and children, and innocent strangers, as well as those who deserved shooting in the first and second degree; themselves and the poachers. It is obvious, that if an esquire has no right to say, "I will shoot the first trespasser who walks up this path," he is just as little justified in saying, "I will shoot the first man who walks up this path without inquiring whether he is a trespasser or not." If it be unlawful to act upon either of these resolutions in his proper person—of which we presume no one doubts—we can see no other difference in the case of the spring-gun, except indeed that in want of discriminating power it is superior to any esquire.

When the bill declaring it unlawful to set spring-guns, except in enclosed gardens or orchards, was brought into the House of Lords by Lord Suffield, the Duke of Wellington proposed to omit the exceptions, and on being called upon to explain his motive for such a proposal, admitted that his object was to defeat the bill altogether†.

This manœuvre, however, induced Lord Suffield to introduce a bill to make the stealing of unsevered produce felony, that is to say, punishable in the same way as the stealing of severed produce. This bill passed through both houses without any opposition or remark, though the bill which prohibited the setting

\* This was the state of the law before the act, which provides a summary remedy for wilful trespass, by authorising a magistrate to direct any one guilty of wilful trespass to make reparation for the damage done, under pain of imprisonment.

† *Ante*, pp. 554, 555.

of spring-guns, in which it originated, was lost in the Commons by a single vote.

The numerous convictions under the new Felony Act have turned public attention to that measure. Nothing seems, on general principles, more reasonable than that the stealing of an apple growing on a tree should be placed in the same scale of crime as the stealing of an apple lying under a tree. The distinction which made the one a felony, the other a trespass, was technical, and in the highest degree absurd. Upon the same principle (that the taking away any part of a freehold is not felony but trespass) the man who clandestinely took the whole of the lead off the roof of another's house could formerly\* be prosecuted, if he were discovered, only by action, as for a civil injury; though if, instead of the roof itself, he took any trifling article of property lying upon it, he would have been punishable as a thief. And even now, though to steal a key out of a door is a clear felony, we doubt whether to steal the door off its hinges be any offence. But, in making a new class of offences, some pains should have been taken in apportioning the punishment, so that public opinion should not revolt at the application of it. There are many cases in which thefts in gardens and orchards are boyish frolics, and would be, according to the prevailing opinion, far too severely punished by the mere committal for trial. It may be said, that public opinion in this respect ought to be changed; but that change is not likely to be effected by a law, the execution of which would bring more odium on the prosecutor than on the delinquent. Under the French code, the stealing of fruit for the purpose of eating it on the spot is punishable only by a fine of a few francs; and the punishment is quite sufficient. Some provision of this kind should have been introduced into Lord Suffield's bill; and, perhaps, in all cases where the property stolen is of small value, a fine, payable to the owner upon summary conviction, would be much more likely to be inflicted, and, therefore, more effectual than a severer punishment. Of all the instances of disproportion between offences and penalties, none are so injurious to the due

execution of the law as those in which *infamizing* punishments are denounced against persons habitually considered as scarcely criminal. The unpopularity of the measure is therefore not to be wondered at, though, with slight modifications, it might have been both popular and useful.

But the act, like almost every penal law that has resulted from the desultory and unsystematic legislation of the framers of the statute book, while it is too indiscriminating, is not comprehensive. The proper remedy for the defect of the law would have been to have taken away, as far as the crime of larceny was concerned, the absurd distinction of real and personal, not only as it regards growing produce, but as it regards every other species of property that is liable to be the subject of depredation.

But whatever are the defects in this act, it takes away the only pretence for the toleration of spring-guns; we cannot say their lawfulness; for no one, not excepting the judges, seems to know whether they have been lawful or not.

The rejection of the bill for settling the law on this subject affords a singular example of the feelings of the majority of the Legislature on the subject of jurisprudence. Though the law on this head is notoriously doubtful—though the judges have delivered conflicting opinions on it, and though these circumstances were brought under the notice of Parliament, yet the House of Commons preferred this state of uncertainty to any distinct legislation on the subject. The bill, which may be considered a declaratory one, passed through that House of Parliament, which, besides forming a part of the Legislature, is the highest court of appeal. The opinion of the greatest judicial body of the kingdom is thus given in favour of one interpretation of the law, while the House of Commons reject this interpretation without proposing or attempting to frame any other.

#### CHURCH ESTABLISHMENT.

##### *Unitarians' Marriage Bill.*

THE question, whether it be right and safe to tolerate the Unitarians, has been already decided by the Legislature. They have been declared worthy of the degree of protection and liberty which is con-

\* The stealing of lead, and in some instances produce, was made criminal by statutes of the last century.



ceded to other dissenters. An end has been put to their direct exclusion from the benefits of the Toleration Act. But the indirect exclusion still operates, and renders their toleration incomplete. They may worship God according to the dictates of their consciences; but on one of the most important and interesting occasions which human life presents, they must also worship, or seem to worship God, in a manner inconsistent with those dictates. Religious liberty is not less violated by the enforcement of Trinitarian, than it would be by the prohibition of Unitarian worship.

It is generally thought desirable that some religious observance should solemnize an entrance upon the matrimonial state. To this the Unitarians do not object. But whatever good effects are contemplated in a religious ceremony must be contingent on the conviction of the parties who perform that ceremony. The members of the Church of England, and even those dissenters who agree with them in doctrines, may be much edified by the service as it now stands. But a compulsory assent to propositions which are disbelieved, produces no edification. It is an act of hypocrisy, and depraves the moral sense, or it engenders irritation and leads to brawling. The house of prayer becomes the arena of theological conflict, and moral utility is the last result which can be anticipated under such circumstances. If any force can be added to the obligation of the matrimonial contract, if public good of any kind can be produced by associating religious sanctions with that contract, they must at least be the sanctions of a religion which the persons contracting hold in reverence.

The prelates of the church of England are accustomed to speak of marriage as a divine institution; but the law has recognized it merely as a civil contract. During the protectorate, parties proposing to marry, presented themselves, not to the clergyman, but to the magistrate. They were content with the benediction of a justice of the peace; and, after the restoration, these unions were declared to be as valid as if they had been celebrated according to the established ritual. Blackstone says expressly, that "our law considers marriage in no other light than as a civil contract." But, assuming that it is a divine institution, assuredly divine authority cannot be pleaded for any particular form of solemnization.

No directions exist on that subject, either in the laws of Moses or the precepts of Christianity. The divinity of the institution cannot be plainer than that the mode of its celebration was altogether left to the choice and consciences of individuals. This freedom was only terminated by the usurpations of the Romish hierarchy; and Pope Innocent III. about the commencement of the thirteenth century, was the first who ordained the celebration of marriage in the church. The utmost, therefore, for which any Protestant ecclesiastic can consistently contend is, that *some* religious ceremony is essential to the marriage union; not that the ceremony adopted by his church is so. His authorities go no further. Whether that ceremony should be imposed is a question of expediency, not of conscience, and must be decided on the ground of public utility.

On this ground, it is not difficult to dispose of the objections which were urged against the Unitarian Dissenters' Marriage bill, and which ultimately occasioned its rejection.

The most important objection is, that the bill would revive those facilities for effecting clandestine marriages, to destroy which was the great object of Lord Hardwicke's act. This objection seems to have been anticipated by the applicants, and was precluded by the first measure introduced on their behalf by Mr. W. Smith, in the session of 1819. The plan then proposed was, that on the production of a written declaration that the parties were Unitarian Dissenters, the clergyman should omit that portion of the service in which an act of Trinitarian worship is performed. This single alteration would have satisfied the petitioners. It would have left all things else connected with the subject, by law or custom, precisely as they now are. But it was found to be so offensive to the clergy, that the plan was abandoned. According to the present bill, the marriage was to be solemnized in the Unitarian chapel, but all the existing regulations of prevention and security, as the mode of obtaining licenses, the proclamation of banns, and the record in the parochial register (the clergyman of the parish having previous notice of the solemnization, and the parties attending on the same day, with a certificate of its having taken place) were to be preserved. As additional precautions, it was provided, that the chapel should have been re-

gistered for worship twelve months previously; that it should be specially registered for the celebration of marriages; that notice of such registration should be placed in some conspicuous part of the interior; that the number of chapels to be so registered, should be limited to six, within the bills of mortality; two in each of the following towns, Bristol, Liverpool, Manchester, Birmingham, and Leeds; one in every other city and market town; and that in no other part of England or Wales, should there be any chapel entitled to registration within six miles of any other previously registered; that the Minister should also be specially registered in the Ecclesiastical Court; that the performance of marriage by any minister not duly qualified, or not according to the provisions of the act, should be felony; and that all marriages celebrated without licence, or publication of banns, or in an unregistered chapel, should be null and void. It was also provided, that, in giving notice to the clergyman of the intended marriage, the same fees should be paid to him, as are at present paid for actually solemnizing it; thus securing to the Established Church, untouched, all that it now possesses of power and emolument.

It seems, however, difficult to concert a scheme which will not be encountered by some scruples on behalf of the Clergy. It was alleged that they could not, conscientiously, become registrars of marriages celebrated in chapels at once Dissenting and Unitarian. The petitioners have to meet this difficulty, on their next application, by the establishment of some office of registration of their own.

Another objection urged by Mr. Peel, was, "that if every man in society were "allowed to select the individual by "whom he should be married, the marriage vow would not be observed with "that sanctity with which it was at present." Yet Dissenters are in full possession of this right both in Ireland and Scotland; and while the average of matrimonial morality is not below that of England in the one country, in the other it is generally allowed to be superior. The Unitarians must have very singular notions of obligation, if they can be made to feel more deeply the sanctity of a vow, by being compelled to take it in names, to which they ascribe no attribute of Divinity.

Mr. Peel seemed to think too, that

there had been forty or fifty years of silent acquiescence on the part of the Unitarians, and that they had no more reason to complain, than other Protestant dissenters. With respect to the supposed acquiescence, so long as the penal statutes against denying the doctrine of the Trinity remained in force, it is obvious, that no application for relief from a Trinitarian ceremony, could have been entertained by the legislature; and it was not likely that such an application should be made, which of itself would have been a confession sufficient to subject the applicant to a penalty. These penalties were not abolished till the year 1813; in 1814, the Unitarians protested in the churches; in 1816, or 1817, they petitioned the legislature for relief; and in 1819, Mr. William Smith introduced a bill, which, had it passed, would have removed the grievance. With respect to the other Protestant dissenters, they are all Trinitarians, and as such, feel no repugnance to the marriage ceremony of the Church of England; or so little as not to have esteemed it worth while to engage in any contest on the subject with the ecclesiastical courts; for in the courts of common law, Lord C. J. Holt seems to have held their marriages valid, and at the present day, the marriages of Jews and Quakers stand on no surer foundation. The marriages of persons belonging to those sects, are indeed exempted from the regulations prescribed by Lord Hardwicke's act †. But this exception does not of itself legalize them; it only confirmed the validity which they previously possessed, which differed in nothing from that of the marriages of other non-conformists.

But it has been urged, that if the members of this sect be allowed to marry in their own way, so also must the members of all other sects. The argument assumes, that the cases are similar, and that the consequence would be an evil. Now the cases are not similar. The difference has been already pointed out. Other sects agree with the establishment in its Trinitarian faith. They can join in its worship; the Unitarian cannot: the mischief of his being allowed to adopt a form more accordant with his creed, under precautions similar to those which are contemplated in the present case, is not to be easily discovered, and ought at least to be specifically pointed out by those who make the objection.

## PUBLIC HEALTH.

*Quarantine Laws.*

THE inconvenience occasioned by the operation of the Quarantine laws, has produced, in many quarters, a demand for the modification or revision of them; but before we can determine the expediency of any considerable alteration of these laws, we ought to ascertain, with precision, whether they do or do not prevent evils much greater in amount than the inconveniences they occasion. In a word, whether there is any foundation for the opinion on which these laws are founded, that the Plague, Typhous fever, and certain other diseases, are propagated by contagion.

We may state briefly then, that up to a comparatively recent period, the prevailing opinions on the subject of contagion were nearly as follows, viz.: That certain diseases, such as Plague, Typhous fever, and Scarlatina, as well as Small-pox, Measles, Hooping-cough, and some others, are communicable by contact with the diseased patient,—by the effluvia exhaled from his body,—and by his breath or saliva:—That certain clothes, particularly of woollen or cotton, if long placed in juxtaposition, or contact, with the patient, have the property of becoming thereby so affected as afterwards to communicate the disease at almost any distance of place or time; and that by this means, in particular, the Small-pox and Typhous fever have been disseminated, in various parts of the globe, by European ships, the crews of which had no such disease among them:—That the activity of the animal poison, as communicable in any of the ways above-mentioned, or in other words, the susceptibility of the human frame to be affected by it, varies considerably in different individuals, and at different times. Of the causes of these variations nothing is known; but it has been observed that in certain states of the atmosphere, and during certain winds, the progress of contagious diseases is checked, if not altogether suspended; as in cold dry weather;—and that in certain other states of the atmosphere, as in a hot and humid temperature, their progress is unusually rapid and fatal: It has been also observed, that these diseases seldom attack the same person

twice: which circumstance, by diminishing the number of persons liable to attack,—and the variations of the atmosphere, by lowering the degree of susceptibility,—have been thought to afford a sufficient explanation of the occasionally sudden suspension or cessation of these contagious diseases; while the retention of the infectious matter, or fomites, in clothes of various kinds, and, the transmission of the disease under every impediment to a few highly susceptible temperaments, are supposed to account for their periodical reappearance, whenever the state of the atmosphere, and the combination of circumstances, is favourable to its diffusion.

The attention of the medical world, and of the public at large, has been lately drawn to a renewed attempt to overthrow the received doctrine of contagion, as it applies to certain diseases generally reputed contagious, and more particularly to the plague, typhous fever, and scarlatina. This opinion seems to have taken its rise in America, during the discussions on the subject of the yellow fever, more particularly those respecting its contagious nature. Dr. Bayley, of New York, in his account of the yellow fever, prevalent in that city in 1795, maintained that it was not contagious, and extended the same theory to other epidemics. The same doctrine was afterwards adopted and illustrated by Dr. Millar\*, and other American physicians. In this country, its chief advocates have been Dr. Adams† and Dr. Maclean‡. We shall proceed to give the outline of their theory, and of the arguments they have advanced in its support.

In order to understand this theory, it is necessary to keep in view the distinctions on which they found it; and the meaning they have affixed to certain terms.

They begin by dividing diseases into three classes; namely, contagious, epidemic, and sporadic diseases§.

To the first division, or that of contagious diseases, belong, as the name im-

\* Report to the Government of New York, Jan. 1806.

† An Inquiry into the Laws of Epidemics, with Remarks on the Plan lately proposed for exterminating the small pox. By Joseph Adams, M.D. 1809.

‡ Result of an Investigation respecting Epidemic and Pestilential Diseases, including Researches in the Levant, concerning the Plague, by Charles Maclean, M.D. 2 vols. 1817.

§ Maclean, Result, &c. i. 148.

ports, all diseases which are capable of being communicated from person to person. They are either general or local. As belonging to the former class, Dr. Maclean specifies small-pox and measles: as examples of the latter, he points out syphilis and the itch\*.

An epidemic disease is defined by some writers to be a disease which is not capable of being propagated by contagion; but which, at certain periods, prevails generally over the whole, or over a large portion of a community. "It comprehends "all the intermediate degrees of affection, "between the slightest catarrh, and the "most destructive pestilence†."

A sporadic disease, is a disease which arises either in a single instance only, or of which the cases at one time are few and scattered: this division comprehends, therefore, all the affections which are not included under the two former divisions.

They hold that it is only the small number of diseases comprehended under the first class of the first division, in this new classification (that is, general contagious diseases), that are communicable from person to person, through the medium of the atmosphere. With regard to these diseases, they adopt the common theory; that is, they admit that a specific animal poison is reproduced in each patient in whom the disease takes place, and that it is transmitted and applied to the person who subsequently becomes infected. It is to be observed, that the catalogue of diseases in which they admit this operation of contagion by effluvia, is rather short. Dr. Maclean enumerates only two, namely, small-pox and measles. Dr. Adams joins with these scarlatina, which Dr. Maclean expressly excludes from this class.

There can be no difficulty, they say, in distinguishing diseases of this class; because "diseases, which are produced by "a specific contagion, have never been "known to depend upon any other‡: and "because contagion, in its operation on the "human body, observes certain fixed laws. "A knowledge of these laws is essential "to the understanding of this subject§."

They are stated to be as follows:—

\* Maclean, *Result*, &c. i. 158.

† *Ibid.* i. 148.

‡ *Ibid.* i. 161.

§ *Westminster Review*, iii, 139. The outline of the doctrine concerning the laws of epidemics and contagious diseases, is abridged from the account given in that article, p. 139, et seq.

1. Contagious diseases produce certain phenomena; that is, a combination of certain symptoms, which symptoms are determinate and uniform, never varying, except in degrees. Each disease, under every variety of circumstance, preserves the same specific character.

2. The phenomena produced by contagious diseases are not only determinate in themselves, but they are uniform in their progress, and in their termination. The order and succession of symptoms are constant, and the periods of their different stages are fixed and invariable.

3. The morbid matter producing a contagious disease, being once secreted, that disease can be propagated at any time, and amongst any number of persons, by this specific virus: and these effects can be produced by no other cause. From this law it follows that no disease which is not contagious at its commencement, can become contagious in its progress.

4. General or acute contagious diseases are incapable of affecting the same person more than once in the course of his life. This is considered as a peculiar and distinguishing law of general contagious diseases: and it is a circumstance which sets boundaries to infection, and could alone, when no precautions are taken, prevent communities from being extinguished.

Epidemic diseases are said to present a perfect contrast to general contagious diseases. They are governed by laws equally precise and uniform; but these laws are just the reverse of those of contagious diseases. For instance, the phenomena of epidemic diseases, instead of being determinate and uniform, are diversified in the highest degree, observe no regular course, and their duration is variable. On the other hand, the periods at which they commence, decline, and cease, are determinate, and exact; and these periods correspond with certain states of the seasons. They differ in different countries according to their geographical position, and they may be anticipated or postponed by circumstances, but in general they are remarkably uniform. They are capable of affecting the same persons repeatedly, and in general, relapses are so frequent and so fatal, that they may be ranked among the chief causes of the excessive mortality of epidemic diseases.

As the classification of diseases into contagious, epidemic, and sporadic, is intended

to comprehend all diseases; it follows that every disease must find a place in one or other of these classes.

If it be a general disease, that is, a disease affecting great numbers in one place, and at one time, it must belong to the class either of contagious, or epidemic. With the exception, therefore, of the small number which are admitted to compose the former class (that is, with the exception of small-pox and measles), all diseases hitherto reputed contagious through the medium of the air, such as typhus, plague, and scarlatina\*, must, according to the theory we are considering, be held to belong to the class of epidemics, and of course to be incapable of being communicated by contagion. Dr. Maclean, indeed, acknowledges, that he employs the terms epidemic diseases, pestilential diseases, and plague, as synonymous†. The following extract from his work will also shew what are his views, with regard to the distinctions usually drawn in these diseases.

"Plague, which comprehends every variety and degree of affection common to this class of maladies, may be aptly regarded as the representative of the whole. The yellow fever of the West Indies and of America, the fevers of Bengal, Batavia, Bencoolen, Bulam, Cadix, Gibraltar, Andalusia, Malta, Walcheren, Leghorn, &c., &c., as well as every variety of remittent and intermittent fever, will all be found to be only modifications of one and the same disease, produced by modifications of the same cause, and yielding to modifications of the same remedies."

That any of the above mentioned diseases can be contagious, is denied on the following grounds:—

First, because they do not in their origin, progress, and termination observe those laws, which have been laid down as characteristic of contagion: Secondly, because the facts on which the doctrine of their being contagious rests, may be more satisfactorily explained in another manner.

The views entertained of the origin and nature of epidemics, then, are next to be stated.

"The cause of an epidemic disease is, or rather is supposed to be, a certain condition of the air.—An epidemic disease prevails through the influence of the atmosphere.—For the extension of an epidemic disease, it is only necessary that a per-

son (provided he be disposed to receive the maulady) be surrounded by the noxious air from which the epidemic arises§. This hypothesis affords the best solution of all the phenomena which they exhibit. What that constitution of the atmosphere is, which gives rise, in any case, to an epidemic disease, we do not know; therefore we cannot know what the peculiar constitution of that atmosphere is, which gives rise to peculiar epidemics. Of both these points we are in total ignorance. It is reasonable to believe, that there are certain qualities of the atmosphere which have a considerable influence in the generation of these diseases; namely, its heat, cold, moisture, dryness, and electrical state; but what degrees and combinations of these qualities are connected with the production of epidemic diseases, we do not know. We have derived, from experience, the certain knowledge of one fact only; namely, that these maladies are generated most frequently, and in the most malignant forms, by a moist and warm atmosphere. It has, moreover, been supposed, that certain changes may take place in the constitution of the air which are not perceptible to our senses, and that these changes may have the most important influence on human health and life. Of this conjecture it is impossible to affirm or deny any thing; the changes it supposes, even if they really take place, must for ever remain unknown to us||. The air, it is certain, is often charged with noxious exhalations, arising from the putrefaction of animal and vegetable matter. These exhalations are generated in marshy situations, or where stagnant water contains dead vegetable matter, and their production is greatly promoted by heat. Their precise nature is not known, for they have never been obtained in a separate state; but it is ascertained, that they are suspended in the air; that naturally they do not extend far beyond the places where they are generated; that, by currents of wind, they are capable of being conveyed to a great distance; that they exert a powerful agency in producing some of the most malignant fevers¶.—"Epidemic diseases," says Dr. Maclean, "in all countries, both cultivated and uncultivated, occur in some districts, in some towns of the same district, in some quarters of the same town, in some streets of the same quarter, in some houses of the same street, in some rooms of the same house, and even in some corners of the same room, more frequently than in others. Of the districts,—the worst cultivated, the most woody, the most exposed to particular winds, to scarcity, to inundation, &c.; of the towns,—those which are situated on the sea-coast, and are low, damp, and unprotected from certain winds; and of the streets, houses, and apartments,—those which are, in the respects mentioned, the farthest from salubrity, and the worst built, and occupied by the poorest inhabitants, are the most subject to visitations of disease\*\*."

Dr. Maclean uses no term to designate this noxious state of the atmosphere, which they conceive to be the immediate source of all epidemic diseases. But as the term *Malaria* is generally used in a sense which

\* Dr. Maclean expressly speaks of scarlatina as being referable to the class of epidemics, and not to that of contagious diseases. Vol. I. p. 159 and 224. † *Ibid.* p. 180. ‡ *Ibid.* p. 151.

§ Westminster Review, iii. 135.

¶ *Ibid.* pp. 141, 142. ¶ *Ibid.* p. 142.

\*\* Maclean, i. pp. 259, 260.

perfectly coincides with their notion of this condition of the atmosphere, we shall, for the sake of avoiding circumlocution, employ it to express this supposed aerial origin of epidemic diseases, according to the theory of Dr. Maclean.

The influence of malaria is supposed to be frequently directed to particular situations by the agency of the winds; and hence the greater insalubrity of some parts of the same town or district, and the apparently capricious locality of its operation. Its activity is promoted by confined air, filth, and crowded habitations. Exposure to the inclemencies and vicissitudes of the weather, to cold, wet, and fatigue; to putrid animal or vegetable exhalations; scarcity of food, mental depression, and above all, the fear of contagion, are stated to be among the chief causes which give a predisposition to be affected by malaria. In this way they account for the greater prevalence of epidemics among the poorer classes, with whom so many of these predisposing causes operate to the fullest extent.

The hypothesis of malaria, combined with that of predisposition induced by the above causes, is alleged to be fully adequate to account for all the phenomena of epidemic diseases, without the aid of the principle of contagion. The existence of such a principle, therefore, in any general disease (except in small-pox and measles), is denied by Dr. Maclean, in opposition to all the facts of apparent communication of disease, either by contact with the patient, or vicinity to his person, or contact with substances capable of imbibing and retaining the effluvia which may arise from his body. All these facts he considers as merely casual or accidental coincidences; the illness of one individual having no real influence on, or connexion with that of another. If a person in health visit a sick man, and soon after is himself attacked with the very same disease, this, he alleges, however frequent an occurrence, yet never can amount to a *proof* that the one event was the cause of the other; because, it is equally possible that the illness of both persons was the effect of some common cause, to which they were both exposed, within a short interval of time. "If you and I are exposed to the rain," observed Dr. Radcliffe, facetiously, upon being asked his opinion respecting contagion, as

applied to epidemic maladies, "we shall both get wet; but it does not follow that we shall wet one another\*." Dr. Maclean contends that exposure to a common cause takes place in every instance of alleged contagion, and that therefore, the introduction of this cause is unnecessary for the explanation of the phenomenon. If it be unnecessary, there is no proof of the existence of contagion.

But further it is said, that not only is the doctrine of contagion unsupported by positive proof, but that it is absolutely disproved by many facts which are inconsistent with its truth. It is alleged first, that innumerable instances may be produced, of persons communicating with patients in all stages of epidemic disorders, such as typhus, and the plague, without such communication being followed by any attack of disease, and that the clothes of those who have died of the plague are worn by the survivors without ill effect, and purchased in the market without hesitation. If these diseases had really been contagious, it would have been impossible for such persons to have escaped infection. Secondly, the duration of an epidemic disease in a particular town or country extends only for a certain period; sooner or later its ravages are mitigated; it ceases to spread, and at length totally disappears. Such a course is irreconcilable with that which would mark the progress of a contagious disease. Contagion, once generated in sufficient quantity, would spread in every direction where social intercourse existed; no limit would confine it; no person would escape its infection; it would overcome all obstacles, overspread the world, and never relax in its course of devastation until it had exterminated mankind. "Epidemics are not contagious, because the human race continues to exist†."

Thirdly, if epidemic diseases depended upon contagion, all persons would alike be liable to contract them. "Contagion being applied, disease would as readily seize the rich as the poor, the well-fed as the ill-fed; the well-clothed as the ill-clothed; the well-lodged as the ill-lodged; the idle as the laborious; those who dwell in a pure, as those who dwell in an impure atmosphere‡."

\* Maclean, i. 157.

† Westminster Review, iii. 147.

‡ Maclean, i. 272.

Fourthly, epidemic diseases are capable of affecting the same individual more than once; contagious diseases never do; the former, therefore, are not contagious.

"The phenomena and laws of epidemics are dissimilar and opposite to those of contagious diseases. Such diseases must, therefore, be inconvertible and incompatible\*."

Fifthly, epidemic diseases sometimes break out in insulated situations, and where no similar disease has, for a length of time, been known to exist. If such disease be afterwards spread by contagion, the contagion must have been generated in the course of the epidemic; for the spontaneous generation of a specific animal poison, is contrary to the ascertained laws of the animal economy. A disease non-contagious in its commencement, cannot become contagious in its progress; nor if once contagious, can it ever cease to be so.

Sixthly, if epidemic diseases were really propagated by contagion, the evidence establishing such a fact would be so clear, so numerous, so overwhelming, as to place it beyond all question: it could not possibly be a matter of controversy. But its truth has been questioned—"this alone must be sufficient to decide the matter in the judgment of every philosophical mind †."

Having given this brief outline of the new theory with regard to epidemic diseases, which is intended to supersede the long established doctrine of contagion; and having stated the principal arguments brought forward in its support, we shall proceed to examine how far they are valid and conclusive.

It is alleged that the supposition of contagion having any share in the production and extension of epidemic diseases is unnecessary, because all the facts are sufficiently explicable by the hypothesis of malaria being the sole cause of these diseases. But to this it may be replied, that malaria, as an agent in the production of disease, is quite as much an hypothesis as that of contagion, for which it is substituted. The matter of contagion cannot be distinguished by the sight, or the touch, or by any of the other senses; nor is its presence to be detected by any physical test. Malaria equally eludes all human scrutiny, and is known only by its effects on the constitutions of those who respire it.

Its origin, its nature, and its physical properties, are confessedly alike unknown. Its operation is noted for its irregularity and capriciousness‡: which is the same as saying, it remains a perfect enigma. It is only by carefully tracing the districts and places where persons are attacked by disease, that its course can be traced, and that it appears to occupy certain situations, and to follow the direction of particular winds. But it is acknowledged, that beyond this, nothing has been ascertained concerning it. Greater facility in explaining facts in the history of epidemics is, therefore, certainly not one of the advantages which the theory of malaria possesses over that of contagion.

Various are the causes, it is said, which contaminate the air, and render it pestiferous, or capable of producing epidemic fevers: and these causes may be reduced to three classes. 1st. The confinement of the healthy exhalations of the human body, as happens, for instance, on board a ship, where the hatches are shut down, during bad weather, and a number of persons kept in confined air between decks, and for a few days. Want of cleanliness will, of course, aggravate this cause of fever. 2ndly. The confinement of morbid exhalations of the human body; as in crowded and imperfectly ventilated hospitals. 3dly. Exhalations arising from the putrefaction of dead animal and vegetable matters. What are called *marsh miasmata* will rank under this latter head. All these, according to the new theory, constitute a state of atmosphere which generates epidemic diseases, such as agues, remittent fever, typhus, yellow fevers, scarlatina, plague, &c., &c.; for all epidemics are considered as belonging to the same species of disease, and to pass into one another by all sorts of gradations. Now it may be perfectly true, that all the above causes may give occasion to fever, and that still some of these particular kinds of fever may be propagated by contagion. We have already stated, that it is by no means impossible that the contagions of typhus may be generated under such circumstances. The only objection that can be urged against such a supposition is,

‡ These "noxious qualities of the air," says the Westminster Reviewer, "which may be so partial and so fluctuating, and which may increase or diminish so slowly, or so instantaneously," are capable of "explaining all the phenomena in the most satisfactory manner."—Vol. iii. p. 160.

\* Westminster Review, p. 147.

† Ibid. iii. p. 147.

that it is not accordant with the analogy of other contagions, and that it is at variance with the notions we naturally form of its properties. But analogy, although highly useful in suggesting subjects of inquiry, and although it may strengthen the probability of conclusions, which have already been deduced from actual observation, would perpetually lead us into error, especially in pathology, if we placed any reliance upon it, independently of observation. This caution is more particularly necessary in speculating upon the operations of nature in the animal economy, where she appears, as if purposely, to throw off the restraint of all the laws by which human intelligence presumes to circumscribe her movements. There can be no doubt that each specific contagion must, at one time or other, have had a spontaneous origin. What has once occurred may again happen; and many instances have appeared in modern times of the generation of new species of contagion, and of the extinction of ancient ones. But after all, this supposition of the spontaneous generation of typhous contagion is by no means necessary for the explanation of the facts. The seeds of the contagion may lurk unobserved, and break out at such times only when a particular concurrence of circumstances favours its activity and diffusion. By thus spreading from a new centre, the appearance of having been spontaneously produced will naturally arise. That similar appearances of spontaneous origin frequently occur, with regard both to the itch, and the small-pox, is well known to all medical practitioners of experience: and yet nobody dreams of inferring from such facts, that these diseases are not contagious.

When it is said, that "contagion has hitherto been universally confounded with this corruption of the air:" and that corrupted air, and not contagion, has the power to generate malignant fevers; the essential difference between the effects of these two agents is totally lost sight of. The characteristic property of contagion is that the disease it excites in a person in health is the same with that of the patient who produces the contagion. Let us suppose that a person, in perfect health, were to remain for a certain time, in the surgical wards of an hospital, among patients confined to their beds, by various

severe infirmities, such as fractures, abscesses, sloughing and gangrenous sores, or carious bones, many of which taint the whole air of the apartment, with highly offensive effluvia; or let him spend some hours in the still more loathsome atmosphere of the dissecting-room, and he will either escape unhurt, or if any bodily inconvenience ensue, his disorder will not resemble any of those which he has approached. But let us, on the other hand, suppose that he were to remain for an equal time in the wards of an hospital, containing patients ill of typhous fever, scarlatina, or the plague, and we shall even suppose that the air is kept perfectly free from any offensive odour: What is the consequence? It frequently will happen that in a few days after such a visit, he is seized with symptoms of fever, which proves to be of the very same kind with that of the patients he has approached or touched. If mere corruption of air be the causes of these diseases, why was not either of them produced in the instances first referred to, where such corruption existed in its fullest degree; while it was scarcely sensible in the latter? Can we believe that the reproduction of the very same disease, and no other, in the latter instance, is the effect of mere chance? If so, why do we never see typhus in one person, produce scarlatina in another, and *vice versa*? To say that such reproduction of a disease is not the result of contagion, is to refuse to that term the acceptation in which it is received by the generality of mankind: for the circumstance in question is the essential part of the definition of contagion. To call it corruption, or contamination of the air, or malaria, or to give it any other name, can never alter the nature of the facts; and is only a fruitless effort to draw distinctions where there is no real difference.

That contagion does not produce its specific effects under every variety of circumstances, that persons may be exposed to its influence and yet escape infection, and that all contagious must necessarily proceed, when once generated, until they have brought under their subjection the whole human race, without any discrimination of age, sex, or condition, are perpetually urged by Dr. Maclean and his followers, as arguments against the reality of such an agent as contagion. Such objections are, it is obvious, founded on mistaken views of the nature of conta-

\* Westminster Review, iii. p. 151, 159, et seq.



gion: they proceed upon the presumption that its properties and powers are different from what they really are. Instances of persons escaping infection, are no proofs that others have not received it: they shew only that contagion has certain limits, beyond which it ceases to be efficient. Typhus and the plague are in this respect perfectly upon a par with small-pox and measles; many persons liable to these diseases, remain in health, while others, who are exposed in the same circumstances, become infected. Because contagion does not spread beyond a certain point, does it follow that it never spreads at all? Because there are obstacles which it cannot surmount, are we on that account to conclude that it is utterly powerless? Must we not still call arsenic a poison, although a fraction of a grain of it may be swallowed with impunity?

The objection that typhous fever, scarlatina, and plague, cannot be contagious, because they may attack the same persons more than once, is equally futile. It is founded on a vain assumption of our being perfectly acquainted with the operation of all these contagions, from considering the analogy of certain other contagions: when the analogy itself, from which that supposed knowledge is derived, really leads to an inference directly the reverse; for no doubt can now exist, that even small-pox and measles, which are assumed as the prototypes of contagious diseases, are themselves liable to recurrence in the same individual. All the generalization which the subject admits of is this, that every contagious disease which has fairly gone through all its stages, diminishes, and in many cases entirely destroys, the predisposition to a second attack. Different diseases effect this constitutional change in different degrees; the small-pox and measles almost always completely: scarlatina less perfectly: typhus and the plague probably also in an inferior degree: but in none is the security absolute. With regard to contagions which act only by virus, there is no security whatever against a return. Nature in this, as in numberless other instances, presents a gradation of power in a variety of analogous agents. Diseases communicable by contagion appear to compose one family, each, however, marked by features of peculiarity. The true analogy, is therefore in favour of the contagiousness of scarlatina, typhus, and the plague; and this

argument is considerably strengthened in the case of the last of these diseases by its eruptive character, which assimilates it with the order of small-pox and measles.

Sufficient has already been said, to shew that the objection founded on the breaking out of epidemics in insulated situations, is of no greater force against the opinion of their being contagions, than it is against that of small-pox or measles being contagious; for the very same thing happens with regard to these latter diseases. There is indeed, scarcely any objection which has been brought forward against the contagion of typhus or the plague, that might not also be urged against that of the small-pox.

It has been alleged, that if the belief in contagion were founded in truth, the proofs of it would ere this time have been so strong and decisive, as to have left no room for doubt. The very existence of doubt on such a subject, is adduced as a proof that the whole theory of contagion is false. But what truth is there that would bear such a test? Narrow indeed would be the circle of human knowledge, if every doctrine that had once been called in question, were to be excluded. In proportion as any proposition is important, we become the more interested in the assurance of its certainty, and solicitous to examine its foundations. The doubts that have been raised on the subject of contagion, far from being proofs of its non-existence, are rather sureties that the subject has, from age to age, undergone discussion and scrutiny: and the doctrine which has stood its ground for ages against opposition, must be esteemed more solid than that which has not been subjected to a similar ordeal. It should also be recollected, that the proofs which daily occur of the infectious nature of a disease, almost universally believed to be contagious, are deemed superfluous, and are therefore neither sought, recorded, nor remembered.

If the authority of medical writers were to be allowed any weight in deciding a question of this nature, the preponderance of testimony in favour of the contagiousness of scarlatina, typhus, and the plague, would be of the most overwhelming kind. But Dr. Maclean's theory is, that the ancients were total strangers to the very idea of a disease being communicated by contagion; and that this notion was an ingenious device of Pope Paul III., who con-

trived it in the year 1547, as a stratagem to frighten away the Council of Trent and lead them to acquiesce in his secret wish to remove their sittings to Bologna. The very circumstance of the removal of the Council from Trent to Bologna, on the plea of contagion, proves, that a belief in the existence of contagion had previously been general and popular. That a belief in contagion existed from the remotest times of antiquity, is incontrovertibly proved by a host of passages from the historians and philosophers of those times, and also from the sacred writings. Thucydides, Aristotle, Galen, Dionysius of Halicarnassus, Livy, Appian, Eusebius, Evagrius, Procopius, Cedrenus, Aretæus, Lucretius, Ovid, Coelius Aurelianus, among the ancient writers; and Muratori, Marsellus Ficinus, Forti, and Alexander Benedict, between the time of the revival of learning, and the date of the Council of Trent, all distinctly speak of diseases communicated from one person to another. The evidence on this point collected by various writers\*, is quite irresistible.

If the prevalence of the belief in contagion, were to be ascribed solely to a fondness in the public for the marvellous, and a disposition to cherish and propagate an opinion, which involved the action of so mysterious an agent as contagion; we should expect that the same notion would have been extended to agues and remittent fevers. But this has not happened, "No such controversy," observes Sir Gilbert Blane, "has arisen regarding the intermittent fevers of the fens of Lincolnshire, and the marshes of Zealand, which are universally admitted to be endemic, and non-contagious†."

But reasonings on the origin of opinions, are little to the purpose, when compared with the direct evidence of facts. If we can obtain positive instances of epidemic diseases being communicated by contagion, that question will be set at rest; and all the hypothetical arguments to the contrary will fade into insignificance, and vanish before the steady light of actual experience. Now the facts are these. Examples without number may be produced, where every member of a family has been affected in succession with typhous fever, in consequence of too frequent

and careless intercourse of those who were well, with those who were sick. In proportion as precautions are used to restrain such intercourse within certain bounds, the numbers thus affected diminish: and if strict care be taken to prevent all communication, the disease does not spread; or if it does, it spreads only to the immediate attendants of the sick. But even in cases where careful ventilation, and constant changes of linen have prevented immediate infection; the linen, the bed-clothes, and the furniture of the room, retain a portion of the poison; and persons using them have been seized with the disease. Innumerable instances also occur of persons catching typhus, from visiting, or otherwise being exposed to the atmosphere surrounding such persons, although in a different, and even remote habitation from their own: and, therefore, not permanently under the influence of the same circumstances in which the patient is placed. Now, one of two things must be true, either the illness of the person first attacked, had some connexion with the illness of the second, (which is the doctrine of contagion,) or the illness of both was owing to a general cause, which, by a singular conjunction, happened to affect these two persons in succession, without the circumstance of their having approached each other having any share in the production of disease. A single instance of such conjunction of events, it is true, could not sanction any inference in favour of contagion. But the occurrence of a second and a third, would strengthen the probability of the action of such a cause. A great number of such coincidences in the same epidemic, such as would form a large proportion of the whole number of cases, would bring it to a moral certainty.

"If typhous were not contagious," says Dr. Stokes, "we would expect that when it is prevalent, it should occur in different families indiscriminately. If, on the contrary, it were contagious, we should expect that more individuals would be seized in those families where it had already appeared, than in others, and this is what has been observed in Dublin, as well as in other cities of the United Kingdom. It may be stated as a well established general observation, that typhous runs through families. The physicians who have practised extensively among the poor, have observed that this disease sometimes affects every individual of a family, in which it appears, frequently the majority, and often produces one or more relapses in several of the family.—There is a certain degree of grouping of disease, which cannot be fairly referred to mere casualty, and this assertion de-

\* See *Medico-Chirurgical Review*, for Oct. 1825.

† *Elements of Medical Logic*, p. 153.

pends on the same principles of the doctrine of chances, as those which prove, that the odds against throwing the same cast of the dice many times successively, are enormous\*."

In the fever which prevailed at Dublin a few years ago, in a family consisting of twelve, eleven out of the twelve were attacked in succession with the disease. "In the general course of the epidemic, in the district in which this family resided, one out of seven took the fever. Had the family consisted of fourteen, it might have been said, before the epidemic, that if two of that family sickened, they have only the average share of the general calamity; in the family of twelve, the sickening of two would have been more than their average share, and the sickening of eleven so much more, that the chance against that event would have been nearly 189,600,000 to 1†."

The hypothesis of malaria, will not account for the fact, that patients who have contracted fever in one situation, after being removed to another and perfectly healthy situation, still communicate the disease to others. Such facts are completely inconsistent with the whole theory of the non-contagionists, that they have no resource left but boldly to deny them. Yet there can be no doubt, that fever occasionally spreads among the patients of the same hospital, and that it is communicated to the nurses and medical attendants. We find it introduced into a family by a visitor, who happens to have the fever upon him, or who brings infection in his clothes. We find it distinctly conveyed by families from one place to another. All these points are abundantly proved by reference to the most authentic medical records. The difficulty is only to select instances from the immense number which exist.

Dr. Marcet states, in his evidence given to the committee of the House of Commons, for inquiring into the state of contagious fever in the metropolis, that in Guy's Hospital, fevers occasionally did occur among the patients arising from contagion. "Of these," he says, "no less than five have occurred, amongst my own patients, within the last six weeks; viz. three men who caught fevers in the hospital, while under treatment for various other disorders; one nurse, who died, and one female patient,

"who was convalescent of a surgical disorder, when she caught the fever in one of the wards, where she is now lying in a critical state‡." Dr. Yelloly states a similar, though less decisive case. Dr. Currie reports, that, in St. Thomas's Hospital, fever has occasionally spread to the nurses, and occasionally it has appeared to be communicated to other patients, but both these occurrences were very rare§. It is to be observed, that we are not at present inquiring into the frequency of the instances of contagion, but whether any such instances are on record.

These are by no means insulated facts: a multitude of others might be adduced, leading to the same conclusions; but the details would be too voluminous for insertion here. If the reader is desirous of tracing the effects of contagion on a scale of greater magnitude, he will find ample records of such in the official documents, relative to the epidemic typhous fever, which devastated Ireland in the years 1817, 1818, and 1819. The Report from the Select Committee of the House of Commons on the state of disease, and condition of the labouring poor in Ireland; and the "Account of the Rise, Progress, and Decline of the Fever, lately Epidemical in Ireland," published by Dr. Barker and Dr. Cheyne, contain a body of evidence clearly demonstrative of the influence of contagion. It appears to us impossible that any candid or unprejudiced person, can, after examining this evidence, refuse his assent to the reality of such an agency.

"Persons exposed to contact with the sick, or to their effluvia, very generally become sufferers, the certainty of an attack bearing some proportion to the amount of exposure. When fever commenced in a poor family, or was introduced by a stranger or lodger, it generally extended to all its members. The poor were the chief sufferers, in consequence of their neglect of cleanliness, particularly with respect to their clothing, and the smallness and crowded state of their apartments, evils at this time much increased by the extreme poverty which weighed them down. On the other hand, the superior classes, whose circumstances were different, their clothing more frequently changed, their persons more cleanly, their apartments less crowded and better ventilated, and among whom seclusion from the sick was practised, in proportion to their enjoyment of these advantages, generally escaped the disease. And that such exemptions did not depend on any other causes than those here assigned, is proved by the great suffering of persons of this class, when sufficiently exposed to contagion by communication with the sick. Thus the medical at-

\* Observations on Contagion. By W. Stokes, M.D., p. 18.

† Ibid, p. 23.

‡ Report from the Select Committee, p. 25.

§ Ibid, p. 39.

tendants in fever hospitals and dispensaries, and the Clergy, more especially those of the Roman Catholic Church, whose duties brought them into contact with fever patients, were very general sufferers, and considerable numbers of them became victims \*."

It would involve us into too extensive details, were we to attempt to adduce any of the numerous instances, which fully warrant the statement here made; we can only refer the reader to the works above quoted, for the particular proofs. It will be sufficient to observe, that in some of the hospitals, every medical attendant connected with the establishment suffered from fever; in almost all, the disease attacked a large proportion of the physicians, students, nurses, or other persons in immediate attendance on the sick. This large proportion of victims to fever, was not confined to the precincts of hospitals; it also occurred among those practitioners who had frequent intercourse with the sick at their own dwellings. Nor were these consequences of communication with the sick, in persons of this rank of life, limited to the medical attendants only: several of those persons, whose humanity led them to inspect the wards, and who thus braved danger from no motive but benevolence, caught the disease. It was fully proved that the medical, and other visitors of the sick, were oftener attacked with this fever, than persons in the same condition of life who were not similarly exposed. The facts abundantly demonstrate that poverty and its attendant consequences, were not essential to the production of this fever. Persons of inferior stations, though well fed and clothed, who came into contact with the sick in hospitals, suffered in an extraordinary degree. In Dr. Crampton's medical report of the fever department of Steevens' Hospital, it is observed "that, with the exception of Dr. Harvey and himself, all concerned in attendance on the patients caught the disease; none of the nurses, none of the porters, barbers, or those occupied in handling, washing, or tending on the sick, escaped, and many of them had relapses, and recurrences of fever." This was not confined to that hospital or city, for it was observed in almost all parts of the country, that persons engaged in attendance on fever patients, more especially if their duties brought them into immediate contact with the sick, rarely

escaped the disease. Clerical visitors of the sick, were also observed to suffer in a very remarkable degree; in the great mortality which took place from fever, among this class of the community, who in the discharge of their religious duties, were peculiarly exposed to infection, compared with those of similar condition, but who had less intercourse with the sick, we have the most irrefragable proof of the influence of contagion.

The communication of the disease by vagrants and mendicants, also strongly corroborates the opinion of its contagious nature.

"To the influence of this cause, Ireland is peculiarly exposed; the miserable state of its peasantry in some parts of the country, much increased of late years by want of employment, and during the prevalence of epidemic fever by scarcity of food, had both extended and augmented those habits of migration, which at all times contribute to spread contagious disease. The effects of such migration at this time may be easily conceived, when we consider that many of these wretched wanderers were either labouring under fever, or convalescent from it, or that they carried with them filthy and neglected clothing, which had recently been in contact with the sick. The spreading of fever in many parts of Ireland, was distinctly referable to vagrants and mendicants. The humane and hospitable disposition of the people of Ireland, mainly contributed to introduce contagion into their dwellings; for the wandering stranger was seldom refused a night's lodging in most parts of the country, till experience of its formidable consequences, showed the necessity of abandoning this practice. So general were the reports as to the pernicious influence of vagrancy and mendicity in communicating disease, that it became a subject of legislative enactment, and the 59th of Geo. III. in the year 1819, was framed to abate this evil."

The following are a few among the more striking proofs of the extension of fever from this cause.

"From Dublin to Gorey," says Dr. Cheyne, "I heard complaints of the injury which the country had sustained from the beggars, who were banished from Dublin last season by the mendicity association. Many of these wanderers actually laboured under fever, and others probably conveyed contagion from house to house in their clothes; and contagion, when so conveyed, is generally supposed to be more active and injurious, than when it proceeds from the persons of the infected. This, which is an important consideration in the prevention of fever, may be practically illustrated by the following occurrence, which took place in the neighbourhood of Gorey, under the eye of a respectable physician of that town, just before fever became epidemic. A beggar from Limerick obtained admission into a labourer's cabin for herself and a dying child. In

\* Drs. Barker and Cheyne, Account of the Fever in Ireland, vol. i. p. 134.

† Report from Select Committee, p. 139 and 141.

five days after she quitted the cabin, fever took place in one of the family, which consisted of the man, his wife, and five children; and in succession, within a day or two of each other, every individual sickened; two children from a neighbouring cabin, who had attended the child's wake, took the same fever within ten days thereafter, and communicated it to their family. The beggar (herself in good health) went to a farmer's house, two miles off, and obtained a lodging that night after her child was buried; every individual in that family, a man, his wife, two children, and a servant, also took the fever within a few days: these fevers were all severe. In the parish of Delgany, county of Wicklow, the small farmers and labourers who refused admission to beggars, and who ceased to frequent wakes, escaped the fever, while others of the same class suffered; and some months after a fever had gone through a family on the Wicklow mountains, it was frequently re-introduced by beggars from Dublin\*.

"In the neighbourhood of Darrow, a woman from Kilkenny, with a sick child, introduced the disease into twelve or fifteen houses, which were her resting-places in wandering through that country. Her track for many miles could be traced, by the disease which she left behind her. Near Cuffesborough, in the same neighbourhood, it was introduced by a strolling beggar in the same manner†."

"No doubt is entertained in the county of Galway, as to the contagious nature of the epidemic fever; amongst the lower orders, it uniformly extended through every individual of a family, when one became affected. It was carried from place to place by the beggars; hence it spread more rapidly in the suburbs of the towns and villages where the mendicants were usually lodged; and this extension of febrile contagion ceased (comparatively speaking) when measures were taken to exclude these hordes of strangers from sojourning in the towns‡."

"A person resident at Ballyduff, who died of fever, had bequeathed his clothes to an inhabitant of the opposite side of the river; and soon after this event, the disease spread through the family into which the clothes had been received§."

Proofs equally strong of the influence of contagion, although of a negative kind, are afforded by the exemption from fever, which was enjoyed by certain descriptions of persons, who had little or no intercourse with the sick. In the report from the county of Waterford, it is remarked, that from this circumstance, little or no fever had appeared among the society of Quakers.

"That seclusion exerts a strong preservative influence, was exemplified by facts derived from unquestionable authority. In the charity school of Killoteran, about three miles distant from Waterford, containing fifty-six boys, no case of fever had occurred, either during the last summer, or since that time, when the disease was so prevalent in Waterford, and the immediate vicinity of the school. The master had received particular

directions to prevent all communication with the town, or surrounding neighbourhood. These directions had been carefully observed. A fact of a different kind, by shewing that comfortable circumstances, and cleanly habits, are alone insufficient to confer security, without a certain degree of seclusion, tends to confirm its preventive efficacy: many of the inferior classes, such as farmers and others, whose circumstances were tolerably comfortable, and habits cleanly, suffered considerably from fever, arising probably from their more frequent and continued intercourse with persons in the lowest rank, amongst whom it was chiefly prevalent||."

Careful seclusion, and the adoption of means calculated to prevent the spreading of disease, as soon as it appeared, were successful in preserving the inmates of the House of Industry at Cork, and the Foundling Hospital of that city, from the disease, at a time when it was very prevalent among the inhabitants in general. In the jail at Cork, the prisoners remained free from fever, when it had spread in every direction amongst the inhabitants of that city, by great attention to the purification of the clothes of the prisoners, and to their wearing jail dresses. After a year and a half, during which this system had been perfectly successful in excluding fever, it was discontinued in consequence of the expense attending the jail dresses: and then fever began to shew itself among the prisoners. The general exemption from fever among the military throughout Ireland, is another striking exemplification of the efficacy of seclusion, accompanied by superior comforts and cleanliness, in repelling this disease.

Certain insulated places, such as the island of Rathlin, on the coast of Antrim; and that of Cape Clear, on the southern point of Ireland, were totally exempt from typhus fever, during the period of its prevalence in the rest of the country. In the latter of these islands, instances of common fever occurred, arising from heat, or cold, or too great exertion; but no typhus. The island of Cape Clear is seven miles distant from the shore, and fever was every where prevalent along the adjacent sea-coast, during the period above referred to¶.

With regard to the island of Rathlin, a curious fact is stated, by Dr. McDonnell, of Belfast. In August, 1814, when there was little or no fever on the coast of Antrim, on going to the island, which is

\* Report from Select Committee, &c. p. 70.

† *Ibid.* p. 74. ‡ P. 44. § P. 14.

|| *Ibid.* p. 11, 12.

¶ Barker and Cheyne, Vol. I. p. 98, 99.

about four miles from the main land, "I was surprised to find two families," says the Doctor, "about the centre of the island, with Typhus. In the first house, I inquired in vain as to the origin of the fever; but on visiting the second house, I discovered that some of the connexions of the family had died in Greenock; they had gone there to visit the sick, and had brought home the clothes of those who died at Greenock, in a chest, and had taken this disorder soon after their return\*." By proper treatment and precautions, the disease soon ceased, but not until several were affected, and three or four died. Since that period, and during the whole of the late epidemic, no case of typhus whatever has occurred on that island, although it was very prevalent on every part of the coast opposite Rathlin. "Now it cannot be said," observes Dr. McDonnell, "that the exemption of this island arises from the inhabitants being of a different description, being less exposed to cold, heat, fatigue, hunger, bad food, filth, moisture, confined air, and the long list of causes, supposed capable of producing this dreadful distemper. Their exemption arises from the perfect conviction the people now have, that the distemper is portable, and that it was imported in 1814." They send away all itinerant mendicants coming over from Ireland or Scotland; and when a native of the island, in November last, crossed the channel, to attend a relative in fever, she was not suffered to return.

The success which has attended the establishment of fever hospitals in various parts of the kingdom, in checking the progress of contagious fever, is a further proof of the soundness of that doctrine for which we are contending. In confirmation of this, we need only refer to the Reports concerning these hospitals, at Manchester, Liverpool, Chester, and London. The opening of the House of Recovery at Manchester, is stated by Dr. Ferriar, to have been immediately followed by a very remarkable reduction in the number of patients with fever in the whole town†. Similar results were obtained at Chester, according to the testimony of Dr. Haygarth‡, and at Liverpool, from the report of Dr. Currie§.

\* Stokes on Contagion, p. 60, 61.

† Medical Histories and Reflections, Vol. III. p. 100, et seq.

‡ Proceedings of the Board of Health in Manchester, p. 112.

§ *Ibid.* p. 132.

The facts already cited, speak for themselves; and establish beyond the possibility of doubt, the contagious nature of typhus.

The evidence for the contagious nature of the plague, is as direct and conclusive as that which establishes the contagiousness of typhus. Those, indeed, who, like Dr. Maclean and his followers, consider plague as only an aggravated form of typhus, must admit the proofs already given of the existence of contagion in the latter, to apply with full force to the reality of the same property in the former. As far as those who hold that opinion are concerned, the question may be regarded as decided. But as the great majority of physicians esteem the plague to be a specific disease, differing from typhus, not merely in degree, but in kind, it is incumbent upon us to examine the question on independent grounds. By all parties, however, it must be conceded, that the strong analogy which subsists between these two diseases, is an argument in favour of the probability of the plague being contagious; if the same property has been proved to belong to typhus.

It is surely unnecessary again to reply to the same arguments urged against the contagion of the plague, as have already been sufficiently refuted when applied to that of typhus. We are ready to admit, that there are many occasions in which the contagion of the plague is totally inert, and its effects not perceptible; for the same reasons that the contagious of typhus, of small-pox, and of scarlatina, or of any other contagious epidemic, are occasionally quite inoperative. But theories, opinions, and speculations, must give way to the positive evidence of facts: and facts in abundance there are of the communication of plague from one individual to another, by contact, by fomites, and also by effluvia; and conversely, it has been clearly demonstrated, that strict seclusion, and interdiction of all the modes by which contagion can be transmitted, has given effectual protection against the appearance of this disease. Whole volumes might be filled with the evidence in proof of these assertions, contained in the writings of those who have themselves witnessed the ravages of the disease in the countries where it constantly prevails, and in those places which have received it from them by importation. The limits of this article will not allow

us to do more than to give a few examples, taken from the most authentic sources, and to speak in general terms of the rest.

The perusal of the works of Dr. Mead and Dr. Russell, should alone be sufficient to satisfy us as to the contagiousness of the plague. "All the appearances attending this disease," says Dr. Mead, "are very easily explained upon this principle, and are hardly to be accounted for on any other\*." That the plague has been communicated from Egypt, and the Levant, to various parts of the west of Europe, is evinced, by its constantly being found to follow the track of commercial intercourse with those countries. "The several countries of Europe have always suffered more or less from plague, according as they had a greater or less commerce with Africa, or the Levant†." Its importation has been distinctly traced from thence into France, Holland, and other parts of the north of Europe. Marseilles, otherwise a very healthy town, was formerly peculiarly exposed to the danger of receiving the plague, from its great intercourse with the sources of infection: and twenty visitations of this terrible scourge are recorded in that city. The first appearance of the plague in any country is always in maritime places, where it would naturally break out on its first importation; and its early line of extension has always been from the coast, towards the interior of the country‡. The direct channel through which the plague was imported into Marseilles, in May 1720, is circumstantially made out; but the details being too long to be inserted here, we shall content ourselves with referring to the account given by Dr. Russell§. The progress of the disease has in general been from the towns to the surrounding country; thus Dr. De Mertens reported, that the plague was conveyed to the villages round Moscow, in the year 1771, by the removal of persons labouring under that malady; and the same formerly happened in the villages near London. It appears to be pretty certain, that the introduction of the plague into modern Europe, was in consequence of the Crusades: and from the ignorance which prevailed, as to the real nature of

the disease, and the mode of its propagation, its visitations were much more frequent and extensive, and its ravages more terrible and destructive, than they have been in later times. The epidemic which raged at Marseilles in 1720, was, in the short space of seven months, fatal to no less than 60,000 of the inhabitants. Its introduction into Messina, about the same period, was also distinctly traced to the Levant; and in consequence, 43,000 persons perished in that town, in the course of three months. The epidemic which broke out in London, in 1598, destroying 11,500 persons, was proved to have been imported from Alkmaar. In 1603, when above 36,000 people fell victims to the plague, the contagion was introduced from Ostend. Six years after this, the disease again raged at Alkmaar, and extended its ravages to Denmark: but in consequence of a suspension of the communication between these countries and England, it was not again conveyed to us. But in 1625, it broke out again in London, at which time it was traced to Denmark. In its next appearance, in 1636, its origin was traced to Leyden. Its last visit to this country was in 1665, when the total number of its victims, upon the most moderate calculation, was not less than 68,000. The Quarantine laws were afterwards established, and we have ever since enjoyed complete immunity from this terrific calamity.

It may be confidently asserted, that the true plague has never been known to make its appearance in any place in the western parts of Europe, excepting at a time when a communication subsisted between that place and a country actually infected with the disease. Contagious fevers, and the fevers produced by marsh miasmata, have prevailed in various parts of the world, at different times, and with various degrees of virulence. Yet in no one instance has the plague arisen spontaneously, or from any of the ordinary causes of fever, not even in the West Indies, in Italy, in Walcheren, in Batavia, Vera Cruz, or whatever spot or climate on the globe has been more destructive of human life. At Malta the plague has been repeatedly introduced. Ciantaro, in his description of Malta, gives a distinct account of its importation at four different periods. The first was in 1592, by means of four galleys, which brought into the port a Turkish prize from Alexandria, where the

\* Mead, p. 241.

† *Ibid.* p. 244.

‡ *Ibid.* p. 246.

§ On the plague, p. 210. See also Mead, p. 254.

plague was raging, and which had 150 Turks on board.

The second appearance of the plague in Malta, was in 1623; but by taking immediate precautions, and sending all those attacked to the Lazarettos, its progress was stopped, almost in its origin. The third instance occurred ten years afterwards, breaking out, as before, in a house near the Porta Maggiore, where the ships from the Levant usually anchored; and being traced to the ships themselves. The whole family in that house was soon infected; but by transferring them immediately to the Lazaretto, the disease was happily extinguished. The fourth event of this nature, in 1675, was attended with far more disastrous consequences. It was attributed to some linen, brought from a Levant vessel, by a Maltese shopkeeper, which, after producing the disease in all those who first came in contact with it; ultimately disseminated the malady throughout the whole population\*. The real nature of the disease not being suspected, when it first appeared many families became infected, before the requisite precautions could be enforced. Some difference of opinion having arisen among the commissioners who superintended the police, insubordination took place, and sufficient care was not taken to seclude those persons, who were actually infected by the disease: thus all the efforts of government to prevent the dissemination of the contagion proved ineffectual. At length, after the disorder had prevailed during four months, the aid of French physicians was procured, and rigid regulations were adopted, and carried into effect; all the people being strictly confined to their houses, and those infected, or suspected of being so, being removed to the Lazaretto. From that moment the disease diminished, and within three months entirely disappeared, after destroying one-sixth of the population.

A lesson so dearly bought was not likely to be soon forgotten; a rigid system of quarantine regulations was put in force; and Malta was preserved for 137 years from any invasion of that formidable distemper. This long exemption from the plague is an unequivocal proof that the climate of the island has no tendency to generate the disease. The arrival of the

brig, San Nicolo, from Alexandria, in March 1813, having the plague on board, of which the captain and two of the crew died, after being sent to the Lazaretto, was followed, about a fortnight afterwards, by the breaking out of the plague in the family of Salvatore Borg. After the death of his daughter and wife, he was himself seized with the same disease, which till then had not been recognized to be the plague, and of which he also soon fell a victim. Two days afterwards, a schoolmistress of the name of Maria Agius, who had attended Mrs. Borg during her illness, was found dead in her own house. The person who made this discovery, and who had touched and shaken her body, ran to the committee of health to acquaint them with the circumstance, and was by them immediately sent to the Lazaretto, where, in a few days, he was seized with plague and died in the course of twenty-four hours. A few days after the death of Maria Agius, a girl who lived in habits of intimacy with her, and slept in the same house, was attacked with the same disease. The father of Borg, and another of his children, were the next victims.

"In the above cited instances," says Sir Arthur Brooke Faulkner, "the contagion has been traced in a direct line, a month and twenty days subsequent to the first entrance of the San Nicolo, and above a month after Borg's first infected child was taken ill in Valetta; added to which, it is proved by official statements, that up to this period, there were no other individuals, excepting those already detailed, infected in any part of Malta." "About this time, the contagion began to diverge in so many directions, in consequence of the unrestrained intercourse of the people, that it would have been extremely difficult, if not impracticable, to follow up the direct line of contaminations, even if the investigation had been earnestly pursued, which I have reason to believe was not the fact."

From Valetta, the contagion made its way in a direct line into the neighbouring cassals or villages, where it raged with great violence. The means of its communication from one of these to the neighbouring island of Gozo, at a late period of the calamity, have been distinctly ascertained. A man belonging to an infected family in the village of Curmi, made his escape with a box of clothes into a neighbouring cottage; it

\* See Edinburgh Medical and Surgical Journal: April, 1824.

† See the evidence of Sir A. B. Faulkner, before the Select Committee, p. 47; and also a despatch from Sir Thomas Maitland to Lord Bathurst, dated Corfu, 8th April, 1819, on the subject of the plague, p. 4.



was speedily found out that he had escaped, and he was accordingly apprehended and sent to the Lazaretto, previous to which he had contrived to conceal the box in his garden. On his being released from confinement in the Lazaretto, he returned to the cottage, which then happened to be without the cordons of troops, dug up his box, and hiring a boat, carried it with him to the island of Gozo, where he had some relations. To these he gave some of the clothes contained in the box. The family who received this fatal present, were the first who were infected on the island; and a priest acquainted with this family was one of the first victims; he died with well-marked symptoms of the plague. The man who had introduced the contagion also died of it\*.

The authentic narratives we possess of this particular epidemic, shew clearly that its progress did not extend from mere vicinity of situation, but that it could be traced to distinct houses, through the intercourse of friends and relations. Thus the contagion became dispersed throughout the town from a very early period, and before the public had taken the alarm. A false confidence also prevailed that the danger had ceased; and after the disease was fully declared, it was believed, that it would necessarily subside of itself as the summer advanced. These erroneous opinions, combined with the opposition that was made to the salutary measures enjoined by the government, contributed in no small degree, to the destructive progress of the malady. This was particularly proved by its protracted duration in the village of Carmi. The decline of the plague, and its final eradication, were the result of the adoption of more vigorous measures; namely, proper classification of the inhabitants, and the absolute separation of the healthy, the sick, and the suspected. In those barracks, where a strict quarantine system was kept up, the plague was excluded, although they were situated in an unhealthy part of the town; while in other places, that were more elevated and airy, but where the same precautions were not observed, the disease was introduced†. Oiled silk dresses were ordered to be worn by every person in the barracks who were in attendance on the sick; and not one of these, who were thus

protected from contact with the patients, caught the disease. On the contrary, almost all those who were employed in carrying out the dead, and who trusted to the security afforded by rubbing the body with oil, perished from the disease. The periods of the increase, decline, and cessation of the disease appeared to have no connexion with the temperature of the air, or other atmospheric changes. The time of the year in which it broke out, namely, May, is the very healthiest season of the year in Malta: it began to decline after the rigid system of police was in operation, in August and September, which are the most unhealthy months; and was not totally extirpated till the month of February following. At Gozo, it began in March, the very healthiest season of the year; and was extirpated precisely before the commencement of the violent heats, which is the unhealthiest season‡. The disease was arrested by the enforcement of restrictive regulations, in several of the casals, during the period of its widest dissemination in other places§.

A striking instance of the security obtained from seclusion occurred with regard to the Augustine Convent.

"This convent, situated in a peculiarly healthful, spacious, and airy part of Valetta, had, from the very beginning, observed the greatest caution to shun communication with the public. It was at length, however, infected, in consequence of one of the servants, who was caterer by occupation, having, in disobedience of public orders, gone to a very contaminated part of the town, called the Manderaggio, and purchased infected clothes. Shortly after his return, he made confession of the circumstance, when one of the brotherhood belonging to this convent, out of compassion, immediately volunteered to attend him, placing himself at the same time, in strict quarantine with the patient. Both nurse and patient immediately fell victims to the disease, but no other individual under the same roof was ever assailed||."

To this we may add, on the same authority, that the hospital of St. John of Jerusalem, the prison, and several public offices, and private houses, which early adopted, and strictly kept up, a rigid system of insulation, enjoyed a perfect exemption from the contagion.

The supporters of the doctrine of malaria maintain, that with the decrease of the disease its violence also subsides."

\* Sir A. B. Faulkner's evidence, p. 50 and 51.

† *Ibid.* p. 50.

‡ Despatch of Sir Thomas Maitland, p. 8.

§ Sir A. B. Faulkner, p. 176.

|| *Ibid.* pp. 68, 69.

"To this alleged fact," says Sir Thomas Maitland, "I paid the utmost attention, and I can prove, by authentic documents, that so far from this being the case at Malta, the last cases were the most violent; and in the instance of the last hundred, by far the most fatal\*."

Much has been said about the want of distinct evidence, that any communication had taken place between the family of Borg, which was the first affected with plague, and the ship which is believed to have brought the infection. On this point, indeed, it is confidently asserted, both by Sir A. B. Faulkner, and by Sir Thomas Maitland, that some smuggled article, whether linen or leather, had been conveyed from the ship to the house of Borg. It was clear, however, that considerable difficulty must always arise in discovering any similar transgression of the laws, especially, when from the consequences which ensued, such odium would be incurred by the culprit, if discovered. But we should consider, in a question of this kind, that although it may be impossible to trace with perfect accuracy every step of the communication, from person to person, up to the original source of infection; yet if the general course of that line of communication is in all its other parts clearly and distinctly made out, we have in truth sufficient data for establishing the moral certainty of the continuity of that line, notwithstanding it appears broken in a single point.

The circumstances attending the introduction and suppression of the plague in the Ionian Islands, within these few years, are also perfectly decisive of its contagious nature. It would occupy too much space to enter into details upon this subject; and we shall therefore content ourselves with mentioning a few particulars on the authority of Sir Thomas Maitland. The plague broke out in the beginning of 1816, at Corfu, where, in consequence of early inattention, it had acquired such a footing as to continue four months in the island; it was at length extirpated by the active exertions of Sir Thomas Maitland. Its origin was very satisfactorily traced to the clandestine importation of two boxes of infected clothes from Albania. The boxes were opened in a house called Casa Polita, in Corfu, by a man who bought the box from the smuggler in presence of some of his associates; and

soon after, eight or nine of the smugglers were taken ill, in that very house. The whole of the family living in the house of the man who had opened the box, together with himself, died. "The belief was, that sorcery existed, and that the house must be exorcised. Accordingly, the papas of the different villages were all called in, and having exorcised the house, they went away, and each, and all of them, carried into their several villages the plague†." It was thus spread at once to twenty-six or twenty-seven different villages; and the difficulty of arresting its progress was much increased.

In the same year, the plague appeared at Cephalonia, having been brought into that island by persons who had been reaping the harvest on the continent, in Epirus and the Morea‡.

It deserves to be remembered, that the plague began in Corfu, in November, with the healthy season, and ceased exactly when the unhealthy season began. But in Cephalonia, the plague began and ended during the hot months. What strongly confirms the doctrine of contagion in this disease, is, that the troops employed on all these occasions, as guards, continued healthy. Had it depended solely on the state of the air, they would infallibly have been seized, for they were in the very focus of the disorder. In epidemic remittents, it is well known, the new-comers are those who suffer, while the natives comparatively escape; but here the very reverse was the case. Those very troops, who, while employed in stopping the plague, never caught it, suffered severely after the plague had disappeared, from the common fever of the country, in consequence of being kept, from necessity, in unhealthy stations, after the unhealthy season had commenced. It is manifest, from all these facts, that the progress of the plague had no visible connexion with seasons or states of the atmosphere.

It is evidently much more difficult to trace the progress of the contagion of plague in countries where this disease is frequently and extensively prevalent, as it is throughout all the Turkish dominions and the Barbary states, where great numbers having had the disease in various degrees, or having been long inured to the contagion, have become very little

\* Despatch, &c., p. 3.

† P. 6.

‡ P. 8.

susceptible of its effects; where the grossest ignorance and apathy prevails with respect to its nature and consequences among all ranks of people:—and where the seeds of the contagion, already universally scattered, are ready to burst forth, whenever the circumstances, formerly adverted to, arise to renew its activity and favour its diffusion. As well might we hope to be able to trace to its source every instance of small-pox, measles, or hooping-cough occurring in London, as to expect to succeed in a similar research with regard to the plague at Constantinople or Morocco. Yet even in these cities, the efficacy of seclusion in interposing a barrier to its progress, has been unequivocally demonstrated. In the mercantile towns in the Levant, it is the established practice with the European residents to shut themselves up in their houses on the first appearance of the plague, and to receive provisions with certain precautions; and so uniformly successful is this practice, when strictly adhered to, that Dr. Russel asserts,

“A case could hardly be specified, in which a secluded family had been affected, where the mischief could not be traced to some violation of the rules of confinement; and if a few cases occur which cannot be so accounted for, he must be an unreasonable man who will contend that no breach of rules, or casual and forgotten imprudence, had introduced contagion.”

Dr. Stokes observes upon this passage, that,

“When we recollect how perpetually we are in want of the communication of society for every article we use, it seems even more wonderful that any families living in a town, and in the habits of perpetual communication, should submit to seclusion, than that this should be often violated.”

This is well illustrated by the evidence given before the Select Committee of the House of Commons by Mr. Hayes, who had resided nearly all his life in Smyrna, and who stated that when the plague prevailed in that town, his household was shut up from all communication with the inhabitants, except through purveyors, who are generally people who have had the plague themselves, and of course not susceptible of taking it again. The disease, however, has been known sometimes to get into the house; but Mr. Hayes declares that he could almost always trace it to some imprudence of the domestics, such as bringing infected clothes into the house: and speaks positively of such facts as having occurred within his own knowledge†. A similar

result on a larger scale was seen in the effect of shutting up or wholly insulating the quarter of the town inhabited by the Franks or Christian population, during the prevalence of the plague in Constantinople and Aleppo‡. In the plague of Moscow, 1771, of which the history is very ably drawn up by Dr. De Mertens, and which was productive of so tremendous a mortality, that 70,000 inhabitants were cut off in a few months, and sometimes 12,000 in the course of a single day, the Foundling Hospital, containing 1000 persons, was preserved perfectly free from the disease, in the midst of the surrounding destruction, by the most strict and rigid system of insulation. Every avenue to the hospital was carefully blocked up, except a single entrance, which was strictly guarded both night and day, so as to secure it most effectually from violation. The disease had been introduced into Moscow by a communication with the Turkish army. The account given by Mr. Jackson of the plague which prevailed in 1799 and 1800 at Morocco, and of the effects of which he was an eye-witness, accord so perfectly with the preceding statements, as to render it unnecessary to give any further details in proof of what has already been the result of such an accumulation of evidence.

The British expedition into Egypt in 1801, 2, and 3, furnished ample opportunities of studying the disease; and the experience of the army medical practitioners has brought the most decisive confirmation of the received opinion as to the contagiousness of the plague. Very satisfactory evidence on this head is contained in memoirs drawn up by Mr. (now Sir John) Webb, at the request of the President and Committee of the College of Physicians, and inserted in the last volume of their Transactions§. It would detain us too long to give an analysis of this valuable report: we shall only state one very striking fact which is there related.

A lieutenant of the 10th regiment of foot was attacked, while in Alexandria, with the plague, and ordered to be conveyed within the boundary of the quarantine; but his removal could not be effected till two days after, in consequence of the wetness of the weather. A hole having been accidentally torn in his moe-

‡ Minutes of Evidence, &c., p. 75.

§ Vol. vi. p. 118.

\* On Contagion, p. 4.

† P. 67, 68.

quito curtain, his servant, John Lee, took it, without his master's knowledge, to the regimental hospital to be repaired, having prevailed on the sentinel to let him pass in direct violation of his orders. The curtain was repaired by a private of the same regiment of the name of William Bower, and then carried back by Lee, who then, at his own request, accompanied his master to the Pest Hospital, and attended him till he recovered. On the fourteenth day after this visit to Bower, the latter was taken ill with very suspicious symptoms, which could not be accounted for until the circumstance of his having repaired the curtain occurred to his recollection. The next morning it became certain that his disease was the plague, and he died the same evening\*.

The facts stated by Dr. Frank, in his evidence before the Committee of the House of Commons, respecting the establishment of the Plague Hospital at Aboukir, in 1800, and the success which attended the adoption of measures for insulating the sick, in preventing the extension of the disease to the army before Alexandria, are also quite conclusive in favour of its being contagious†. See also the evidence of Sir James Macgregor, which is to the same effect‡.

Such then are the facts, for the explanation of which we are called upon to frame some rational and consistent theory. The question we have to decide is the following. Must we believe that the numberless coincidences that have been observed between certain events, namely, the communication of persons with others having the plague, or with the clothes they had worn, and the subsequent seizure of those persons with the very same disease, have *every one of them*, being the result of pure chance; and that no other cause has operated, than a general one existing in the atmosphere only, and consisting in its contamination, or its corruption, or malaria,—or by whatever other name we may designate this mysterious source of disease? Or will not these coincidences be much more simply, more intelligibly, and more philosophically explained by the supposition of contagion; a principle of which the operation is well known, and is recognized to exist in other analogous diseases? The former theory involves us in a maze of inextricable perplexity; the

latter furnishes a clue by which we escape all the principal difficulties. Malaria may, perhaps, account for a few of the circumstances attending the periodic rise and cessation of some endemic diseases; but it opens only a single entrance, and leaves us in the threshold of the inquiry. Contagion is the master-key which unlocks all the avenues to the knowledge of the true nature of pestilential communication.

The facts which prove contagion are positive; and from the very nature of the question, it is impossible that any facts that can be brought on the opposite side can be other than negative facts. If of a hundred persons exposed to infection, ninety escape, and only ten receive it, does not the fact of its taking effect in these ten sufficiently prove the agency of contagion, notwithstanding the failure of its operation in the other cases? The failures can only indicate the limits of this operation; but its reality may be established by a very small number of facts. If a strange dog, running across the country, should have bitten several persons, and if of these only two or three should afterwards be seized with hydrophobia, the rest remaining free from disease, can the escape of these be adduced as any argument that the dog was not mad, or that hydrophobia is not contagious? And yet this is the kind of argument brought forward by the non-contagionists, as if negative evidence could invalidate the conclusions from positive facts.

That the plague, under certain circumstances is not communicated, and therefore may appear not to be contagious, is no more than what happens in many other diseases which are known to be infectious: it is seen occasionally, even in the small-pox and measles. If the hypothesis of malaria could account for the rapid variations in the progress of an epidemic, it might perhaps be worthy of some consideration; but, in fact, it leaves us totally in the dark respecting them. Even if we understood the atmospheric changes, which are alleged to have so important an influence on these diseases, they would still be perfectly compatible with the agency of contagion, the operations of which they tend in some cases to impede, and in others to promote.

Equally unfounded are all the other objections that have been made to the

\* Pages 166, 137. † P. 77 to 80. ‡ Ib. p. 59.

contagiousness of the plague. It has been supposed, for instance, that the plague is merely an aggravated form of typhus, varying perpetually in its degrees and aspects, so as to deserve the character of a proteiform disease. If the fact were so, our belief in its being contagious, would only be the more strengthened from the conviction we have obtained, that typhus is contagious. But all the best informed physicians, those who have known it from personal observation, and have had direct opportunities of witnessing its symptoms, and studying its nature, regard it as a specific disease, distinguished by peculiar characters. As well might it be said, that scarlet fever was not a specific disease, because we find it, even in the same epidemic, appearing under a great variety of forms, though derived from the same contagion.

It is asserted, that the plague begins and ceases at periods surprisingly regular. We have already shewn, that this proposition is completely falsified by the history of the epidemic at Malta, and the Ionian islands. In like manner the assertion, that it appears soonest in unhealthy places, is refuted by the same series of facts. The course of its progress in Malta, and every other place where it could properly be observed, was just what would necessarily happen, supposing it to be propagated solely by contagion; and its extirpation invariably followed the adoption of measures founded upon this supposition.

The Select Committee of the House of Commons, having referred the subject of Dr. Maclean's doctrines to the College of Physicians, through the Privy Council, the following is their answer to the principal questions proposed to them.

"1st.—We are of opinion, although some epidemic diseases are not propagated by contagion, that it is by no means proved, that the plague is not contagious, or that the regulations of plague police are useless or pernicious. We are persuaded, on the contrary, from the consideration of the experience of all ages, and some of us from personal observation, that the disease is communicable from one individual to another.

"2nd.—The additional proofs which would be required of the non-existence of contagion, must be such proofs as would be sufficient to counterbalance the

"general opinion of medical and philosophical authors and historians, from the times of Thucydides, Aristotle, and Galen, to the present day: so late as the year 1813, the contagious nature of plague was fully ascertained by the British medical officers in the island of Malta.

"3rd.—The doctrine of contagion appears to us to be wholly *unshaken*, by any argument which Dr. Maclean has advanced; at the same time we think it probable, that some of the personal restrictions enforced in the establishments for quarantine, might be modified without risk to the public safety."

In a subsequent letter, they declare, that nothing contained in Dr. Maclean's second volume, has altered the opinion expressed by the College in their former report."

Yet the discussions which the subject has undergone, have not been wholly unproductive of benefit. The attention of observers has been awakened to the great influence, which various circumstances exert on the activity of contagion. The efficacy of a pure and continually renewed atmosphere, and of a scrupulous attention to cleanliness, in disarming contagion of its power, has been placed in a stronger light, than that in which it had before been generally viewed: and will tend to restrain within more reasonable bounds, the excessive dread which has sometimes been entertained of the activity of contagion. The positive proofs which exist of the contagiousness of typhus, of scarlatina, and of plague, in certain circumstances, render it absolutely imperative on us to act, in all cases where these diseases are concerned, on the presumption that contagion may be operating. It has been abundantly proved by a multitude of facts well known to medical men, that these contagions are often exceedingly subtle and insidious, and our vigilance should therefore be unceasing to close every avenue to their introduction, and to destroy every germ that can be discovered to exist. That England might again be visited by the plague, is undeniable. The recent example of Malta is sufficient evidence, that the exemption of nearly a century and a half, is no proof of absolute security against the possible introduction of so terrible a scourge. The devastation which a pestilence would produce in a populous country like this, where the constant in-

tercourse between all ranks of society, and between the most distant parts of the kingdom, would conspire to spread the contagion far and wide, with unexampled celerity, bids defiance to all calculation. The quarantine regulations are our safeguard against so tremendous a calamity. The alarm excited on the continent, by the discussions that have taken place in this country, however unfounded, had begun to produce very serious inconvenience to our commerce; and shews us, that whatever evils may result from the shackles which the quarantine laws impose on trade, they are not to be compared with the impediments it would have to encounter, from the precautionary measures that the continental powers would deem it necessary to resort to, if any material relaxation of those laws were to take place here. Already, at Marseilles, and at Genoa, as we are informed by Mr. Canning, has a much longer quarantine been imposed on British shipping, than on that of any other nation. At Naples, in addition to the usual term of quarantine, a term of three weeks has been imposed upon British vessels that had quitted England, since the non-contagionists have been so busily promulgating their opinions. We cannot therefore but agree with him, in the wish, that if experiments on the question of the contagiousness of the plague are to be carried on, they should be tried and exhibited, as such experiments anciently were, in *corpore vili*, rather than upon the interests and commercial pursuits of a great nation, or upon the safety and the lives of millions of our population.

#### CONSTITUTION.

##### *Private Committees of the Two Houses.*

We cannot make our readers better understand the abuses of the private bill system, than by describing the process of making a private bill into a law.

The first step taken by the managers of any project which may require a private act, is to reserve a considerable number of shares in the undertaking for distribution amongst members of parliament, who, together with the shares, receive an intimation, as Mr. Gurney stated in the House, that they are ex-

pected to use "their best exertions on all occasions to promote the success of the project"; in plain language, to vote for the bill when and where the promoters please, in return for the shares. Having by these means, and by the influence they can command over members in case their constituents are interested, secured a body of constant and active supporters, they lodge, in the hands of one of their retained members, a petition to the House of Commons for leave to bring in their bill: he presents it, and names a committee (we need not say of what members) to consider whether the petitioners have complied with the standing orders of the House as to the time of presenting petitions, and other subsidiary points. If there be any opposition to the bill, the adversaries, who take care to enlist a phalanx of members on their side, instruct one of them to move that "all who come to the committee shall have voices;" that is, that any member who chooses to put his head into the committee-room may vote. If this committee, whose proceedings are sometimes conducted with the most surprising disorder, decide in favour of the petitioners, the bill is brought in and read twice. Should the promoters fear any opposition in the House, they take care to send down their adherents; and, moreover, canvass all the other members, not excepting the king's ministers, with the greatest assiduity, by letter, and oftentimes from door to door, never delicate about charging their adversaries with the most dangerous intentions. Some of the canvassing letters which were profusely distributed amongst the members during the last two sessions have fallen into our hands, and if we felt at liberty to present them to our readers, with the names and dates, they would form very striking and authentic records of the intrigues carried on upon these occasions. The following was delivered to at least half of the members in one day last session:

" ———— BILL.

" SIR,  
" The opponents of this measure, in defiance of their solemn undertaking, are determined to divide the House on the above bill to-morrow, on the ——— reading; so that one of the most beneficial measures ever brought before the consideration of the legislature will be unjustly

defeated, if the members of the House fail to attend at 4 o'clock, when the Speaker takes the chair.

"Your obedient humble servant,

"Agent.

"To ———, Esq., M.P."

To this epistle was appended a postscript in the following terms:

"P. S. I have taken the liberty to make this intimation at the suggestion of Mr. ———."

Mr. ———, who made this kind suggestion, was a member holding shares!

There were various other shareholding members who canvassed in the same ingenious way for the support of their colleagues on the same reading of the bill!

Should the bill escape the perilous ordeal of the two first readings, it is referred to a select committee, to hear what may be urged for or against it by the different parties, and to report thereon to the House. As this tribunal is private, and its doors closed against the public and the press, it may be easily understood that it is the arena for the grand conflict. The member who has hitherto managed the measure, selects the members for the place or county connected locally with the bill, some members from the adjoining counties, and any other members whom he likes, and whom, it may be supposed, he takes care to select from among those interested in the bill, or who have private reasons to favour it. Such a committee will not suit the interests of the adversaries: in order, therefore, to bring their phalanx into action, they either move to add their names to the committee, or to allow all the members of the House to vote. The latter motion is generally resorted to in the first instance, as it is sure to be made ultimately by the party who find the scale turning against them. As the peculiar advantages of the project are set out in the preamble or introduction to the bill, the first step, on the part of its promoters, is to prove them; which they do by hiring one, two, or more barristers to make addresses to the committee, and examine witnesses. If the opponents of the bill have not strength enough to strike a decisive blow in the beginning of the proceedings, they prolong them by speeches of counsel, by endless examinations and cross-examinations of the witnesses for the bill; and if this will not answer their turn, they bring forward

witnesses on their own side, whom they submit to the same process. In the committee of last year upon the bill for lighting London with Oil Gas, the bill was opposed by three established coal gas companies, and the array of counsel on all sides amounted to *thirteen*; — *ten* of whom were opposed to the bill! Let our readers figure to themselves, if they can, what the ingenuity of ten lawyers, confined by no rules of examination, and controlled by no power or dignity in their tribunal, could do in the way of vexatious delay. The unpleasantness of the proceedings, as may be imagined, generally keeps the committee-room empty; so that the only members who sit to keep up appearances, are those who are interested in the project: they rarely consist of more than half a dozen, and frequently of only two; one to sit in the chair, and preside over the other. In the committee upon the London Oil Gas bill, we generally saw the chairman and about four or five members; once, we recollect to have seen the chairman alone.

If the opponents of the bill fail in delaying the measure, their next step is to get the committee to adjourn *sine die*, or to so distant a day as to prevent the bill from passing into a law. For this purpose, the members of the House are all re-canvassed, and every artifice used to procure a majority. As the promoters of the bill are never safe against surprise in this way, they have to renew their canvass nearly every day, at an enormous expense, and with the greatest hazard of alienating their friends, by bringing them down when not wanted. In a petition from the projectors of the London Oil Gas Company, who had been defeated by the committee's adjourning *sine die*, it was stated, that the committee, after spending a month in hearing their evidence, suddenly adjourned *sine die*, upon hearing the case of only *one* of the three opposing companies, and that the committee almost entirely consisted of members holding shares in the opposing companies, one member being one of their chairmen. This statement has never been denied.

As the promoters of the bill have, however, the power of turning the tables upon their opponents, by closing the proceedings, a compromise is sometimes entered into, by which the parties en-

gage not to agitate the question of adjournment without due notice. In bargains of this kind, we have heard members take a part, on their respective sides, with as little disguise as the parties themselves or their attorneys.

Should the question of adjournment be disposed of, the first point for the decision of the committee is the proof of the preamble. Our readers would be under a great mistake if they supposed that no member would venture to give a vote at this stage who had not heard the witnesses. The only ears that hear the witnesses and the lawyers are those of the half dozen members who have particular reasons for their attendance. But, as soon as the first division is expected to take place, the canvassing and intriguing for reinforcements from the body of the House are resumed, so that it sometimes occurs that sixty or eighty members are assembled to vote, not more than a tenth of whom have listened to a single word of the proceedings. The committee-room presents the most lively scene for a few minutes before the division. Members, managers, and attorneys may be seen, some marshalling their parties, others scouring the passages of the House to catch a stray member, or ransacking the other committee-rooms; whilst others speed to the parliamentary clubs, and freight hackney-coaches to the House with the idlers. This process sometimes yields an ample harvest of recruits. In the case of the Highgate Chapel bill, the opponents of the measure, who consisted of sixteen out of twenty, were overwhelmed by a reinforcement of twenty fresh members suddenly enlisted from the other committee-rooms, not one of whom had ever heard one word of the proceedings.

If the preamble is decided to be proved, the next step is to examine and decide upon the different clauses of the bill, which gives ample scope to bring the existence of the project again into question, as will be seen by the following case which occurred last session. The proceedings on the Liverpool and Manchester Railway bill, after having occupied seven weeks in the examination of witnesses, the speeches of counsel, and the discussions, first of the committee of standing orders, and afterwards of the committee upon the bill, were brought to a close on the preamble,

which was decided to have been proved by a majority of thirty-seven against thirty-six: this vote established the fact that the railway in question would be beneficial, and ought to be constructed. The committee then adjourned to the following day. The promoters of the bill, slumbering with unconscious security upon this decision, neglected to take vigorous measures to order down their cohorts the next day in force. Not so their adversaries, who sent down a compact body. The first clause called on, was, to enact that it should be lawful for the projected company to make the proposed railway. The opponents, seeing their superior force, came to an early division, and rejected it by a majority of nineteen against thirteen. The next clause, authorizing the purchase of certain lands through which the road must pass, or be given up, was then called on, and rejected by a similar majority. So that the decision which established that a railway, in the direction of the lands proposed to be purchased, ought to be made, was entirely annihilated by the majority of a committee which did not count so many members on both sides as the simple majority of the day before.

Should the committee at length agree, the bill is referred to the House, where it is again read, the members again undergoing a canvass.

After the bill has passed the House of Commons, it is carried up to the House of Lords, where it is read twice, and referred to a private committee. This committee, though less obnoxious to the imputation of unfairness than that of the other House, is equally open to objection on another score; for it consists, for the day, of any peers, amounting to nine or upwards, who may take it into their heads to walk down to Westminster. Hence, should the proceedings last more than one day, it necessarily happens that one part of them is heard by one set of judges, and another part by a second set. This anomaly, is, in practice, got rid of; for my Lord Shaftesbury, who is the chairman, salaried by the House to preside on all committees, is the real judge in every case; the committee rarely venturing to decide against the better opinion of their chairman. This is so well known to the agents and managers of private bills, that they always take care to have a private meeting with the chair-



man or his clerk before the bill is brought before the committee, in order to settle the disputable points beforehand with greater convenience. Should my Lord Shaftesbury pronounce in favour of the bill, it is read a third time, and becomes a law, on receiving the royal assent.

The system in the Lower House met with very severe reprobation at several periods during the last session. One member went so far as to state, that it was a "shame and reproach to the honour and character of parliament \*;" and another declared, that "nothing could be more scandalous than the conduct of private committees, and, until the system was altered, he would never sit on another†." Such declarations—and we might quote many such,—render it unnecessary for us to add any thing in the way of condemnation.

Some partial remedies were suggested. In one of them it was proposed to exclude all members interested either for or against a bill, from voting. The only objection of any weight urged against this proposition was, that it would be evaded by members buying shares in the names of other parties‡; which is certainly a decisive objection against the House's legislating at all on such matters, so long as the public are kept in the dark as to the merits of the question by its being decided in secret by a private committee. Another improvement suggested, was, to select the committee by ballot, with power to strike out a certain number of names at the instance of the parties to the measure, for the purpose of excluding interested members; but the advanced age of some members, and the official duties, business, and professions of others, are insurmountable objections to this plan. A third plan suggested by a select committee, delegated during the last session to inquire into the subject, was to abolish the practice of opening the committee to all the members of the House, and to commit the bill to the member who manages it,—the members serving for the place connected with the project,—to sixty members taken equally from adjoining counties, and sixty more taken indiscriminately from Great Britain and Ireland,—with power for the parties to strike out thirty names, in order to ex-

clude interested members. It was believed that a quorum of such members might be prevailed on to investigate private bills fairly. Assuming that it is proper to have the attendance of the members for places locally connected with the project, this plan is still very defective; for it provides no remedy for cases in which the projects have no local connexion, such as foreign mining or trading speculations, projects connected with the colonies, or projects affecting the kingdom at large, like the Equitable Loan or Alliance Insurance Companies. But we object to the principle of confiding private bills, involving local interests, to the members representing the places interested; for those members invariably treat such measures in connection with electioneering intrigues; as was shewn in more instances than one during the last session.—The Hull Dock bill, for example, which sought to make all vessels trading to that port, pay new rates, and therefore could not exempt vessels from any particular port without manifest injustice, was brought in by the corporation, and supported by the members of Hull: the members for Beverley, who on the principle of choosing members locally connected, sat upon the committee, were instructed by their constituents to oppose the bill, unless the vessels trading from their borough were exempted; and the supporters of the bill, finding such an opposition inconvenient, yielded the exemption: Hedon, Grimsby, and Gainsborough, boroughs in the neighbourhood of Hull, together with the members for Lincolnshire, all threatened opposition, and yielded only upon terms: while the members of all these places were obliged to vote in obedience to their constituents, under pain of losing their seats at the next election.—Besides, what is to prevent the admission of indirectly interested members, among the list of the sixty indiscriminate votes, unless they be chosen by lot, the inconvenience of which we have already adverted to?

It appears to us impossible to frame any plan for private committees, which is not either unfair to the public, or to the members of the House. There is a general objection which the committee appointed to investigate the subject did not think proper to make, viz. the want of publicity in the proceedings. The importance of the press as a check

\* Mr. Baring, *ante*, p. 501.

† Mr. Littleton, *ante*, p. 596.

‡ Mr. Littleton, *ante*, p. 594.

upon the conduct of committees is so manifest, that we need not remark upon it. Its importance as a check upon the House itself we think equally certain: and should the public be put in possession of the merits of a private bill by the publication of the proceedings before the committee, they would have a considerable check against unfairness in the House itself, as they would then be in a position to judge of the integrity of the votes. The objection to publishing these proceedings on the score of breach of privilege, is a mere objection of form; and if applicable at all, would apply with equal force against publishing the proceedings of the courts of justice. However, the number of committees sitting at the same time, and the confusion and delay of their proceedings, from their want of means to control the litigant parties, would prevent any beneficial exercise of the press, as those committees are constituted at present.

The radical fault lies in the construction of the committee; and as its defects, according to every view we can take of the subject, appear incurable, we conclude that recourse must be had

to some other tribunal in its place. For this purpose, we see no objection to appointing a set of salaried commissioners, each to sit in an open court, to decide upon the merits of a proposed bill, and to make his report to the House, accompanied by the evidence. As they should be prohibited from holding any interest in the projects, a fair decision would, so far, be secured. Their habits of business, and the powers that might be lodged in their hands to control the proceedings, would abridge the scandalous delays which have been denounced by the committee of the House of Commons as "injurious to the ends of justice, and the character of parliament;" and their sitting in open court, and exposure to the press, would be at once a check upon themselves and the House. The practicability of this plan is obvious, as all such business in the House of Lords is in effect done by one peer, whose integrity and diligence have never been questioned. As such a commission must be made by an act of the whole legislature, it might serve for both Houses, and thus rid the public at once of the defects peculiar to each of them in the present system.

THE END.











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